

No. 12119

United States
Court of Appeals

for the Ninth Circuit

UNITED STATES OF AMERICA,

Appellant,

VS.

JACK ANDRADE, Claimant of One 1947 Cadillac
Automobile, Motor No. 8431298, Serial No.
8431298, its tools and appurtenances,

Appellee.

Apostles on Appeal

Appeal from the United States District Court
for the Northern District of California,
Southern Division

FILED

MAR - 4 1949

PAUL P. O'BRIEN,

CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF PROCTORS

For Libelant and Appellant:

FRANK J. HENNESSY, Esq.,
United States Attorney,

JOSEPH KARESH, Esq.,
Assistant United States Attorney,

ROBERT F. PECKHAM, Esq.,
Assistant United States Attorney,
San Francisco, California.

For Intervener and Appellee:

FRED A. WATKINS, Esq.,
111 Sutter Street,
San Francisco 4, California.

In the Southern Division of the United States
District Court for the Northern District of
California.

No. 25173-R

UNITED STATES OF AMERICA,

Libelant,

vs.

ONE 1947 CADILLAC SEDANETTE AUTOMO-
BILE, Motor No. 8431298, Serial No. 8431298,
its tools and appurtenances,

Respondent.

LIBEL OF INFORMATION

Now comes Frank J. Hennessy, United States
Attorney for the Northern District of California,
and respectfully presents to the Court the follow-
ing:

I.

That on or about the 24th day of March, 1948,
in the City and County of San Francisco, State
of California, and within the jurisdiction of the
United States and of this Honorable Court, duly
authorized and acting agents of the Bureau of
Narcotics, Treasury Department of the United
States, seized a certain automobile, to-wit, One
1947 Cadillac Sedanette Automobile, Motor No.
8431298, Serial No. 8431298, [1*] its tools and ap-
purtenances, which said automobile had been and
was being unlawfully used in violation of Section
781, Title 49, United States Code, as follows, to-

* Page numbering appearing at foot of page of original certified
Transcript of Record.

wit: (a) that said automobile had been, and was being used to transport, carry and convey certain contraband articles, to-wit, narcotic drugs, which did not bear appropriate tax-paid internal revenue stamps as required by law or regulations; (b) that the said contraband articles had been possessed and concealed and were then and there possessed and concealed in or upon said automobile and in or upon the person of Everett Brown while in or upon said automobile; (c) that the said automobile had been and was being used to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange and giving away of the said contraband articles.

II.

That by reason of the premises the said automobile, its tools and appurtenances, has become and is subject to forfeiture and condemnation pursuant to the provisions of Section 782, Title 49, United States Code; that the said automobile, its tools and appurtenances, are presently in the custody of the District Supervisor of the Bureau of Narcotics, United States Treasury Department, and are held within the jurisdiction of this Court as forfeited to the United States for the causes above set forth.

Wherefore, the United States Attorney prays that the usual process issue against the said automobile, its tools and appurtenances, and that all persons interested in and concerned in the said automobile, its tools and appurtenances, be cited to appear and show cause why such forfeiture should not be adjudged and that all due proceedings [2]

being had therein, this Honorable Court may be pleased to condemn the said automobile, its tools and appurtenances, as forfeited to the United States, and that a judgment condemning the said automobile, its tools and appurtenances, may thereupon be made and entered, and that the said judgment may also order the same to be delivered to the United States Treasury Department, Bureau of Narcotics, District No. 14 thereof, and for such other and further judgment and order as to the Court may seem proper in the premises.

/s/ FRANK J. HENNESSY,

United States Attorney.

[Endorsed]: Filed May 7, 1948. [3]

[Title of District Court and Cause.]

WARRANT OF SEIZURE AND MONITION

The President of the United States of America.
To the Marshal of the Northern District of California—Greenings:

Whereas, on the 7th day of May, A.D. 1948, a Libel was filed in the United States District Court for the Northern District of California, by Frank J. Hennessy, United States attorney for said District, on behalf of the United States, against One 1947 Cadillac Sedanette Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, Respondent, and praying that all persons interested in said goods, wares, and merchandise may be cited in general and special, to answer the premises; and due proceedings being had, that the

said goods, wares, and merchandise may, for the causes in said Libel mentioned, be condemned as forfeited to the use of the United States.

You Are Therefore Hereby Commanded to attach the said goods, wares, and merchandise, and to detain the same in your custody until the further order of said Court respecting the same; and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited to the use of the United States, pursuant to the prayer of said Libel that they be and appear before the said Court, at the city of San Francisco on the 18th day of May, A.D. 1948, at 10 a.m. the same being the return of this Monition if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf, and that as to any person not so appearing default and condemnation will be ordered. And what you have done in the premises, do you then and there make return thereof, together with this writ.

Witness the Honorable,

(Seal)

MICHAEL J. ROCHE,

United States District Judge,
at San Francisco, California, this 7th day of May,
A.D. 1948.

C. W. CALBREATH,

Clerk,

By C. A. TROLLIET,

Deputy Clerk. [4]

MARSHAL'S RETURN

In obedience to the within Monition, I attached the One 1947 Cadillac Sedanette, Motor No. 8431298, Serial No. 8431298, et al, therein described, on the 10th day of May, 1948, and have given notice to all persons claiming the same or having an interest in said cause, that this Court will, on 18 day of May, 1948, at 10 a.m. (if that be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same. I further return that I posted a notice of seizure on the herein named 1947 Cadillac. I further return that I handed to and left with Mr. A. Lerner in charge a copy of this Writ, at San Francisco, California, on the 10th day of May, 1948.

* * * *

San Francisco, California, May 10, 1948.

GEORGE VICE,

United States Marshal,

By HERBERT R. COLE,

Deputy.

[Endorsed]: Filed May 11, 1948. [5]

[Title of District Court and Cause.]

MOTION TO INTERVENE AS DEFENDANT

To the Judges of the District Court of the United States for the Southern Division, Northern District of California:

Jack Andrade, your petitioner, respectfully alleges and shows as follows:

I.

Jack Andrade, your petitioner, is the owner of a 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, and makes claim to said car.

II.

That the above-entitled cause was commenced in this Court by the filing of complaint by the United States Attorney on behalf of the United States of America as libelant on May 7, 1948; that said action of libel of information is an action against the said 1947 Cadillac sedanette automobile hereinbefore referred to under a theory that one Everett Brown, in violation of Section 781, Title 49 United States Code, unlawfully used said automobile in that the said Everett Brown used said automobile to transport, carry and convey certain contraband articles, to-wit, narcotic drugs, which did not bear appropriate tax-paid internal revenue stamps as required by law or regulations, and that said contraband articles had been possessed or concealed and were then and there possessed or concealed in or upon said automobile and in or upon the per-

son of said Everett Brown while in or upon said automobile, and that said automobile had been and was being used to facilitate the transportation, carriage conveyance, concealment, receipt, possession purchase, sale, barter, exchange and giving away of said contraband articles. [6]

III.

That pursuant to the said alleged violation by one Everett Brown of the said laws of the United States, to-wit, Title 49, United States Code, the acting agents of the Bureau of Narcotics, Treasury Department of the United States, seized that certain automobile, one 1947 Cadillac sedanette, Motor No. 8431298.

IV.

That petitioner, Jack Andrade, has no knowledge, or had no knowledge, of any alleged use of said car, to-wit, one 1947 Cadillac sedanette, Motor No. 8431298, in violation of Title 49, United States Code, or in violation of any other law of the United States; that petitioner is informed, and therefore alleges, that said 1947 Cadillac sedanette was not at any time used in violation of Title 49, United States Code; that petitioner has a right to intervene in the above-entitled litigation under Rule 24 of the Federal Code of Civil Procedure; that the applicant and petitioner so situated as to be adversely affected by the disposition or other distribution of property in the custody of the Court or of an officer thereof; that your petitioner claims to be and is the owner of the automobile now under custody of the Court or its officers; that your pe-

tioner was on or about the 24th day of October, 1947, the owner of said automobile, and on said day sold the said automobile to one Everett Brown under a contract of conditional sale, which said contract was assigned to the Pacific Finance Corporation of California, and which said contract was repurchased by your petitioner from said Pacific Finance Corporation on or about the 25th day of May, 1948.

Wherefore, petitioner prays that this Court make an order granting leave to petitioner to intervene herein as a defendant, with leave to file the attached answer herein, and for such other and further relief as to this Court seems just.

Dated: July 1, 1948.

FRED A. WATKINS,
Proctor for Petitioner.

[Endorsed]: Filed July 6, 1948. [7]

[Title of District Court and Cause.]

ORDER GRANTING LEAVE TO FILE
ANSWER IN INTERVENTION

The above-entitled matter came on regularly to be heard this day on the motion of Jack Andrade, applicant in intervention, appearing by counsel, Fred A. Watkins, Esq.; of counsel, Bernard B. Glackfeld, Esq., and the office of the United States Attorney appearing on behalf of the United States of America, Robert F. Peckham, Esq., counsel, and evidence being adduced therein, and the Court be-

V.

That your intervener is informed and believes, and therefore alleges, that neither, on March 24, 1948, nor from October 4, 1947, to date hereof, was the said Cadillac sedanette automobile used in violation of Title 49, United States Code, for any unlawful or illegal purpose in the transportation, carriage or conveyance of certain contraband articles, to-wit, narcotic drugs, not bearing appropriate tax-paid internal revenue stamps, nor that said car possessed and concealed or that its occupant, Everett Brown, while in or around said automobile, possessed or concealed any of said contraband narcotic drugs, nor that said automobile was used to facilitate the transportation carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange and giving away of said contraband articles.

VI.

That your intervener alleges that said Everett Brown is a stranger to intervener, and said intervener has no connection or relationship with any alleged violation of Title 49, United States Code; that your intervener has an interest in the said automobile to the extent of Three Thousand One Hundred Twenty-three Dollars and Ten Cents (\$3,123.10); that your intervener has acted in good faith in all respects in the matter herein; that your intervener is willing and ready to post bond and/or cash as security for any costs incurred by libellant herein in the event your intervener allows a default judgment to be rendered against him.

Wherefore, intervenor prays that the Court order the 1947 Cadillac sedanette automobile, Motor No. 8431298, to be released by the District Supervisor of the Bureau of Narcotics, United States Treasury Department, [10] and delivered up to your intervenor, and for such other and further relief.

JACK ANDRADE,
Intervener.

(Verification.) [11]

EXHIBIT A-1

CONTRACT OF CONDITIONAL SALE
(California)

The undersigned Seller hereby sells, and the undersigned Everett Brown, Purchaser, hereby purchases for the time price and subject to the terms and conditions hereinafter set forth, the following property, delivery and acceptance of which in good order is hereby acknowledged by Purchaser, viz:

Year model: 47. Trade name: Cadillac. Type of body, if truck, state tonnage: 62 sedanette. Serial No.: same. Motor No.: 8431298. State license number: 99N205. New or used: U. No. of cyls.: 8.

Cash Selling Price: (Inc. Accessories \$5200.00, Sales Tax \$156.00) \$5356.00(a).

Down Payment: Cash \$2307.00.

Agreed Net Value Trade-in: \$2307.00(b).

Amount Unpaid on Cash Price (a) less (b):
\$3049.00(c).

The Purchaser makes application to the Seller to insure said property in Companies acceptable to Seller for the following coverages and to include

the premiums therefor in the balance due under this contract. Said insurance to become effective as of the date of execution of this contract and to expire

* * * *

Fire & Theft, 24 Mos.; Prem. \$46.20.

Vendor's single int., 24 Mos.; Prem. \$70.00.

Conversion, 24 Mos.; Prem. \$70.00.

Total Insurance Premiums \$186.20 (d).

Registration and Title Fees \$1.00 (e).

Unpaid Balance, (c) plus (d) plus (e)
\$3236.20 (f).

Time Price Differential \$730.48 (g).

Total Contract Balance Due Seller From Purchaser \$3966.68 (h).

Which Purchaser agrees to pay in installments of \$165.32, on the 4th day of each succeeding month for a period of 24 months, beginning Dec. 4 — 47, together with additional payments as follows: at the office of Pacific Finance Corporation of California, with interest thereon after maturity at the highest legal rate, together with a reasonable collection fee in the event of default, and if the services of an attorney be employed for the enforcement of any of the obligations of Purchaser, or the rights of Seller, either by suit or otherwise, Purchaser agrees to pay reasonable attorney's fees.

Executed in triplicate, one copy of which was delivered to and retained by Purchaser this 24th day of Oct., 1947, at S. F.

1. Title to said property shall not pass to Purchaser until all sums due under this contract are

fully paid in cash. Payment to any one other than Pacific Finance Corporation of California does not constitute payment hereunder.

2. No warranties, express or implied, have been made by the Seller unless endorsed hereon in writing.

3. Purchaser shall keep said property free of all taxes, liens and encumbrances; shall not use same illegally, improperly, or for hire; shall not remove same from the state or transfer any interest therein without written consent of the Seller. Seller may insure said property against fire and theft, or any accidental physical damage to the property to protect Purchaser, Seller, or Seller's assignee. Purchaser agrees to pay the premium upon demand. The proceeds of any insurance, whether paid by reason of loss, injury, returned premium, or otherwise, shall be applied toward the replacement of the property or payment of this obligation, at the option of Seller.

4. Time is of the essence of this contract, and if Purchaser default in complying with any of the terms hereof, Seller, at his option, and without notice to Purchaser, may declare the whole amount unpaid hereunder immediately due and payable, or Seller may take immediate possession of said property without demand (possession after default being unlawful), including any equipment or accessories thereto; and for this purpose Seller may enter upon the premises where said property may be and remove same. Seller may resell said property, so retaken, at public or private sale, without demand for performance, with or without notice

to Purchaser (if given, notice by mail to address below being sufficient), with or without having such property at place of sale, and upon such terms and in such manner as Seller may determine; Seller may bid at any public sale. From the proceeds of any such sale, Seller shall deduct all expenses for retaking, repairing and selling such property, including a reasonable attorney's fee. The balance thereof shall be applied to amount due; in case of deficiency, Purchaser shall pay same with interest. Seller may take possession of any other property in above described motor vehicle at time of repossession and hold same temporarily for Purchaser without liability on the part of Seller. Seller shall have the right to enforce one or more remedies hereunder, successively or concurrently.

5. No transfer, renewal, extension or assignment of this contract or any interest thereunder, or loss, injury or destruction of said property shall release the Purchaser from his obligation hereunder. Acceptance by the Seller of any payment required hereunder, after same is due, shall not constitute a waiver of this or any other provision of this contract. The seller is authorized to correct patent errors in this contract. Seller's assignee shall be entitled to all the rights of the Seller.

JACK ANDRADE,

Seller.

By /s/ E. HUBBY,

Secty.

/s/ EVERETT BROWN,

Purchaser.

ASSIGNMENT AND PURCHASE
AGREEMENT

San Francisco, Calif., 1947

For Value Received, I hereby sell and assign to Pacific Finance Corporation of California (hereinafter called the assignee) the above described contract and the property in said contract mentioned; and I guarantee, warrant and agree to defend the title of said property hereby conveyed against all lawful claims and demands whatsoever, except as against the rights of the purchaser set forth in said contract; and I agree that, if the assignee shall take possession of said property for failure of the purchaser to perform any of the conditions or requirements of said contract, and shall make delivery of the said property to my place of business within ninety (90) days after due date of the then unpaid installment longest overdue, I will pay to the assignee upon delivery, all installments then delinquent under the said contract, and will pay the balance remaining under the said contract, within thirty (30) days after such delivery; but no such delivery shall be required to be made to me if at the time of such taking possession I am no longer in the automobile business or am deemed by the assignee to be an unsafe risk, in either of which events the assignee shall have full right to make sale of said property as in said contract provided and I will upon demand pay to the assignee any and all sums provided in said contract to be paid by purchaser after sale; but if at the time the assignee makes demand on the purchaser or takes legal

steps for the possession of said property, any installment then due shall be more than forty-five (45) days delinquent or if said property is alleged by the assignee to have been stolen, embezzled, confiscated, or burned and if insurance be carried notice of loss is not filed with the insurer thereof within forty-five (45) days after the assignee is upon notice that such loss of the property is alleged to have occurred, then I shall stand relieved of all liability hereunder; and should the automobile be repossessed solely as the result of one accidental collision or overturning, then I shall be relieved of my liability hereunder up to the amount of the cost of repairing the damage done by this one collision or overturning only, not to exceed, however, the sound value of the property at the time of such collision or overturning; but should the property be lost as a result of theft, confiscation, or embezzlement, or be wholly or partially destroyed by fire or other casualty, if there be any sum still unpaid on said contract after applying upon the contract any insurance settlement received by the assignee therefor, then I agree to pay to said assignee such unpaid sum upon demand. I understand that title to said property remains in the assignee until the contract balance shall be fully paid, and I agree that in the event of my failure to pay the amounts herein agreed to be paid in the event of delivery of said property to my place of business, or in the event I am deemed by the assignee to be an unsafe risk, then in either event the assignee may take possession and make sale of the

said property as in the contract provided, and I agree to pay upon demand, all sums provided in said contract to be paid by purchaser after sale. In the event that an attorney is employed or suit is brought by said assignee to enforce any of my obligations under this assignment, then I agree to pay to such assignee a reasonable attorney's fee in such suit. I hereby consent that extensions of time of payment and changes of the terms of said contract may be made by the assignee without in any manner releasing me from liability, and I hereby waive presentment, demand, notice of non-payment, advertisement and notice of sale, and any other notice whatsoever and suit against the purchaser; and I agree that, as to the assignee, my obligation hereunder shall be enforceable even though the assignee's rights to enforce said contract or any provision thereof be suspended or impaired by any statute or otherwise. I hereby waive all statutes of limitation in any way affecting the time within which seller may enforce its rights hereunder and the defense thereof.

For the purpose of inducing the assignee to purchase the said contract and property, I make the following representations and warranties: that the information concerning the purchaser given on the blank provided for that purpose is truly set down therein as the same was given by said purchaser and that the information is true and correct as to the purchaser's address and occupation; that the said contract is a bona fide one and was actually executed by the person named therein as purchaser;

that said purchaser was of legal age and competent to execute said contract at the time of the execution thereof; that the property which is the subject of said contract is truly and accurately described therein; that said property has been delivered into the possession of the purchaser; that the amount recited in said contract as having been received upon the signing thereof as part of the purchase price of said property was actually paid in cash and/or by a motor vehicle received in trade at not more than its then cash value; that I have duly filed or recorded said contract in accordance with the laws of the state in which the buyer resides, and will apply immediately for the cause to be issued a certificate of title for said motor vehicle setting forth the title or interest of the assignee under said contract; that the amount owing upon said contract at the time of its execution is correctly stated therein; that there are no recoupments, counter-claims or set-offs on the part of said purchaser against the same; and that there have been no representations or warranties made to the said purchaser which are not contained in said contract, and that I have no information or reason to suspect, that any provision of the said contract will be violated, or that the purchaser is other than a good moral and financial risk.

Where the terms "installment then due" and "due date of the then unpaid installment," and similar terms are used herein in connection with provisions releasing the guarantor of liability, it

is understood and agreed that these terms refer to installments or payments due under the contract as extended by any extensions of time of payment made to the purchaser.

JACK ANDRADE,
Seller.

By E. HUBBY,
Secty.

* * * *

“EXHIBIT B”

Pacific Finance Corporation

928 Van Ness Avenue
San Francisco 9, California
TUxedo 5-4554

For Value Received we hereby sell and assign, without recourse, unto Jack Andrade the within contract signed by Everett Brown, as purchaser, covering 1947 Cadillac Sedanette, Motor Number 8431298.

PACIFIC FINANCE CORP.
OF CALIFORNIA,
By /s/ M. E. TEAGARDEN.

Dated at San Francisco, California, this 25th day of May, 1948.

Subscribed and sworn to before me this 25th day of May, 1948.

(Seal) /s/ JESSIE DOBBIN CROWLEY

[Endorsed]: Filed July 19, 1948.

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled cause having come on regularly for trial on the 13th day of August, 1948, and having been continued until the 27th day of August, 1948, before the above-entitled Court sitting without a jury, Joseph Karesh, Esq., and Robert Peckham, Esq., appearing for the libelant, United States of America, and Fred A. Watkins, Esq., appearing for intervener, Jack Andrade, and evidence, both oral and documentary having been introduced, and the cause submitted for decision, the Court now makes its findings of fact as follows: [12]

FINDINGS OF FACT

I.

That it is true that on or about the 24th day of March, 1948, in the City and County of San Francisco, State of California, duly authorized agents of the Bureau of Narcotics, Treasury Department of the United States, seized a certain automobile, to-wit, one 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances; that it is true that at said time said Cadillac sedanette was in the illegal possession of one Cato Barrow; that the said automobile, its tools and appurtenances are presently in the custody of the District Supervisor of the Bureau of Narcotics, United States Treasury Department.

II.

That on or about the 24th day of October, 1947, Jack Andrade was the owner of that certain 1947 Cadillac sedanette automobile, its tools and appurtenances, and that on said date Jack Andrade did sell said car, its tools and appurtenances under a conditional sales contract to one Everett Brown; that said contract of conditional sale was assigned on said date to the Pacific Finance Corporation of California; that said Everett Brown became in default under the terms of said conditional sales contract; that intervener Jack Andrade repurchased the 1947 Cadillac sedanette from the Pacific Finance Corporation, pursuant to a guaranty of payment agreement with said Finance Corporation, on or about the 25th day of May, 1948: that Jack Andrade is the legal owner of said Cadillac sedanette automobile.

III.

That on or about the 24th day of March, 1948, the Bureau of Narcotics agents, Treasury Department of the United States, seized that certain 1947 Cadillac sedanette automobile for an alleged violation of Title 49, Section 781, United States [13] Code, by one Cato Barrow; that Jack Andrade is a stranger to Cato Barrow and to Everett Brown; that Jack Andrade has acted in good faith, and when Jack Andrade sold the said Cadillac sedanette automobile to Everett Brown on the 27th day of October, 1947, said Everett Brown presented sufficient credit references by way of cash paid to Jack Andrade and by way of information to

Jack Andrade which indicated to Jack Andrade that said sale was one in the usual course of business of said Jack Andrade; that said Jack Andrade had no other relationship with Everett Brown than that necessary to consummate the sale of the Cadillac sedanette automobile on October 27, 1947.

IV.

That Everett Brown was not in possession of, nor ever in possession of, or in or about the said 1947 Cadillac sedanette automobile at any time when the Federal agents, Bureau of Narcotics, Treasury Department of the United States, seized said car for a violation of Title 49, Section 781, United States Code; that said Everett Brown did not at any time expressly or impliedly authorize Cato Barrow to have possession of said 1947 Cadillac sedanette automobile; that said Cato Barrow was in illegal possession of said 1947 Cadillac sedanette automobile on March 24, 1948, at the time the Federal agents, Bureau of Narcotics, Treasury Department of the United States, seized said car, nor at any other time.

V.

That Jack Andrade has at all times acted in good faith and in complete innocence in the sale of said Cadillac sedanette automobile to Everett Brown, and did have no, and has never had any, knowledge of the use of the said 1947 Cadillac sedanette automobile for any violation of Title 49, Section 781, United States Code, nor were there any circumstances sufficient to arouse the suspicions of a reasonable and prudent person. [14]

CONCLUSIONS OF LAW

As conclusions of law on the foregoing facts, the Court finds:

That Intervener Jack Andrade is entitled to possession of that 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, and that said Jack Andrade is entitled to be exonerated from his bond posted to secure any default or contumacy on his part.

Judgment is hereby ordered to be entered accordingly.

Dated: September 9, 1948.

MICHAEL J. ROCHE,
Judge of the District Court.

(Receipt of Service.)

[Endorsed]: Filed Sept. 9, 1948. [15]

[Title of District Court and Cause.]

LIBELANT'S PROPOSED AMENDMENTS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW PROPOSED BY INTERVENER.

The above entitled cause having come on regularly for trial on the 13th day of August, 1948, and having been continued until the 27th day of August, 1948, before the above-entitled Court sitting without a jury, Frank J. Hennessy, United States Attorney, Joseph Karesh, Assistant United States Attorney, and Robert F. Peckham, Assistant United States Attorney, appearing for the libelant, United

States of America, and Fred A. Watkins, appearing for [16] intervener, Jack Andrade, and evidence, both oral and documentary having been introduced, and the cause submitted for decision, the Court now makes its findings of fact as follows:

I.

Libelant proposes that Paragraph I of Intervener's proposed Findings of Fact be amended in the following particulars: By striking therefrom that clause on page 2, line 9, beginning with the words "that it is true," ending with the words, "one Kado Barrow," on line 10, page 2.

II.

Libelant proposes that Paragraph II of Intervener's proposed Findings of Fact be amended by striking therefrom the clause beginning on line 26 of page 2 with the words, "that Jack Andrade," and ending on line 27 of said page 2 with the word "automobile"; and by adding to the said Paragraph II of Intervener's proposed Findings of Fact the following: "That said 1947 Cadillac Sedanette was sold by the said Jack Andrade to the said Everett Brown for the purchase price of \$5356.00 and that the said Everett Brown paid to the said Jack Andrade on the 24th day of October, 1947, in cash, a down payment in the sum of \$2307.00; that the said Everett Brown furnished the said Jack Andrade certain credit references at the time of the sale of the said 1947 Cadillac; that Boyd Puccinelli and the Bank of America, Post and Fillmore Branch, San Francisco, California, were listed as credit references by the said Everett

Brown; that neither Jack Andrade nor his office manager contacted any persons listed as credit references to determine the personal background of the said Everett Brown; that Everett Brown was convicted of a felony, a narcotic violation, prior to October 24, 1947; that Boyd Puccinelli has been and is now a [17] duly licensed bail bond broker and in his capacity as a bail bond broker had furnished bail for the release of Everett Brown who had been arrested and placed in jail prior to the 24th day of October, 1947, for violation of the narcotic laws of the United States; that a petition for remission and mitigation of the forfeiture of the said 1947 Cadillac Sedanette Automobile was filed by the Pacific Finance Corporation with the United States Attorney for the Northern District of California and was transmitted on the 25th day of May, 1948, to the Attorney General; that while action upon the said petition was pending the Pacific Finance Corporation withdrew the said petition on or about June 16, 1948; that no petition for remission and mitigation of the forfeiture of the said 1947 Cadillac Sedanette Automobile has ever been filed by the said Jack Andrade.

III.

Libelant proposes that Paragraphs III, IV and V of Intervener's proposed Findings of Fact be amended by striking each and all of said findings and every part thereof, and by substituting in their place and stead the following paragraph:

"That Kado Barrow and Everett Brown lived together in the residence of Everett Brown at 1430

O'Farrell Street, San Francisco, California, and were both residing in said residence during the period from February 22, 1948, through March 23, 1948; that Kado Barrow and Everett Brown were engaged in the illegal business of peddling and selling narcotic drugs during this same period; that the said Kado Barrow was at no time illegally in possession of the said 1947 Cadillac Sedanette Automobile during this same period; that Everett Brown was arrested for violating the Narcotic Laws of the United States on March 24, 1948, and that at the [18] time of the said arrest Ruby Slater fled from the room of the said Everett Brown at 1430 O'Farrell Street, San Francisco, California; that the said Ruby Slater at said time and place had heroin in her possession; that Everett Brown was convicted for the concealment and sale of narcotic drugs, which concealment and sale took place on the 20th day of February, 1948, and is now serving fifteen years in the Federal Penitentiary at McNeil Island, Washington; that Kado Barrow pleaded guilty to the sales of narcotics, which sales took place on the 22nd day of February, 1948, and on the 26th day of February, 1948, and is now serving a ten-year sentence in the Federal Penitentiary at McNeil Island, Washington."

IV.

That Everett Brown was the registered owner of the said 1947 Cadillac Sedanette Automobile on the 22nd day of February, 1948; that the said 1947 Cadillac Sedanette Automobile was being used on the 22nd day of February, 1948, to transport, carry

and convey a certain contraband article, to-wit, 12 grains of heroin, which did not bear any tax-paid internal revenue stamps; that on the said date the said contraband articles were possessed and concealed on or upon the said 1947 Cadillac Sedanette Automobile and in or upon the person of Kado Barrow while he was in or upon said automobile; that on the said date and upon or in the said Cadillac Sedanette Automobile the said Kado Barrow sold 12 grains of heroin to a Government informer under the surveillance of Federal Narcotic Bureau Agents.

V.

That Everett Brown was the registered owner of the said 1947 Cadillac Sedanette Automobile on the 24th day of February, 1948; that the said 1947 Cadillac Sedanette Automobile was being used on the 24th day of February, 1948, to [19] transport, carry and convey a certain contraband article, to-wit, 12 grains of heroin, which did not bear any tax-paid internal revenue stamps; that on the said date the said contraband articles were possessed and concealed on or upon the said 1947 Cadillac Sedanette Automobile and in or upon the person of Kado Barrow while he was in or upon said automobile; that on the said date and upon or in the said Cadillac Sedanette Automobile the said Kado Barrow sold 12 grains of heroin to a Government informer under the surveillance of Federal Narcotic Bureau Agents.

VI.

That Everett Brown was the registered owner of the said 1947 Cadillac Sedanette Automobile on

the 26th day of February, 1948; that the said 1947 Cadillac Sedanette Automobile was being used on the 26th day of February, 1948, to transport, carry and convey a certain contraband article, to-wit, 12 grains of heroin, which did not bear any tax-paid internal revenue stamps; that on the said date the said contraband articles were passed and concealed on or upon the said 1947 Cadillac Sedanette Automobile and in or upon the person of Kado Barrow while he was in or upon said automobile; that on the said date and upon or in the said Cadillac Sedanette Automobile the said Kado Barrow sold 12 grains of heroin to a Government informer under the surveillance of Federal Narcotic Bureau Agents.

VII.

That Everett Brown was the registered owner of the said 1947 Cadillac Sedanette Automobile on the 23rd day of March, 1948; that the said 1947 Cadillac Sedanette Automobile was being used on the 23rd day of March, 1948, to transport, carry and convey a certain contraband article, to-wit, 8 grains of heroin, which did not bear any tax-paid internal [20] revenue stamps; that on the said date the said contraband articles were possessed and concealed on or upon the said 1947 Cadillac Sedanette Automobile and in or upon the person of Kado Barrow while he was in or upon said automobile; that on the said date and upon or in the said Cadillac Sedanette the said Kado Barrow sold 8 grains of heroin to a Government informer under the surveillance of Federal Narcotic Bureau Agents.

CONCLUSIONS OF LAW

As conclusions of law on the foregoing facts, the Court finds:

That the said automobile, its tools and appurtenances, are condemned and forfeited to the United States.

.....
United States District Judge.

[Endorsed]: Filed Sept. 7, 1948. [21]

[Title of District Court and Cause.]

ORDER DENYING FORFEITURE

The above-entitled cause coming on regularly to be heard on the 13th day of August, 1948, and the 27th day of August, 1948, before the above-entitled Court, and the Court having heard the evidence therein and having heretofore made its findings of fact and conclusions of law upon said findings and conclusions,

It Is Hereby Ordered, Adjudged and Decreed as follows:

I.

That intervener Jack Andrade do have and recover from the United States of America that certain 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances.

II.

That the District Supervisor of the Bureau of Narcotics, United States Treasury Department, be

and he is hereby directed forthwith to turn said 1947 Cadillac sedanette automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, to said Jack Andrade.

III.

That said Jack Andrade be and he is hereby exonerated of bond of Two Hundred Dollars (\$200) heretofore posted by said Jack Andrade to secure any delay or contumacy on his part in the above-entitled action.

Dated: Sept. 9th, 1948.

MICHAEL J. ROCHE,

Judge of the District Court.

(Receipt of copy.)

Filed and Entered Sept. 9, 1948.

Entered in vol. 39 judg. and decrees at page 328.

[Endorsed]: [22]

[Title of District Court and Cause.]

NOTICE OF ENTRY OF JUDGMENT

To United States of America, Libelant, and Frank J. Hennessy, United States Attorney, Attorney for Libelant:

You are hereby notified that on September 9, 1948, a judgment and order was entered on behalf of Jack Andrade, Intervener in the above-entitled matter, denying forfeiture.

Dated: September 10, 1948.

FRED A. WATKINS,

Proctor for Intervener.

(Affidavit of service by mail.)

[Endorsed]: Filed Sept. 11, 1948. [23]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Comes now the libelant United States of America, appearing by Frank J. Hennessy, Esq., United States Attorney for the Northern District of California, and hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment entered by the United States District Court for the Northern District of California against said libelant United States of America on September 9, 1948.

Dated: This 10th day of September, 1948.

/s/ FRANK J. HENNESSY,
United States Attorney,

By /s/ JOSEPH KARESH,
Assistant United States
Attorney,

/s/ ROBERT F. PECKHAM,
Assistant United States
Attorney,
Attorneys for Libelant,
United States of America

[Endorsed]: Filed Sept. 10, 1948. [24]

[Title of District Court and Cause.]

LIBELANT'S PETITION FOR APPEAL

Libelant, being aggrieved by the rulings, findings, and judgment, and decree, made and entered therein by the above-entitled United States District Court on September 9, 1948, claims an appeal from said rulings, findings, judgment and decree to the United States Court of Appeals for the Ninth Circuit, and prays that its said appeal may be allowed.

The points and grounds of appeal are the following:

1. The Court erred in rendering judgment against libelant United States of America in that there is not any evidence to justify the findings or judgment, and the order, decision and judgment are not supported by the evidence, and are contrary to law. [25]

2. The Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that the respondent, One 1947 Cadillac Sedanette Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, was in the illegal possession of Kado Barrow.

3. The Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that Everett Brown did not at any time expressly or impliedly authorize Kado Barrow to have possession of said 1947 Cadillac

Sedanette Automobile, and that Kado Barrow was in illegal possession of said 1947 Cadillac Sedanette Automobile on March 24, 1948, or at any other time.

Dated: December 7, 1948.

/s/ FRANK J. HENNESSY,
United States Attorney,

/s/ JOSEPH KARESH,
Assistant United States
Attorney,

/s/ ROBERT F. PECKHAM,
Assistant United States
Attorney,
Attorneys for Libelant
United States of America.

[Endorsed]: Filed Dec. 7, 1948. [26]

[Title of District Court and Cause.]

ORDER ALLOWING APPEAL

The within appeal is hereby allowed.

Done in open Court this 7th day of December,
1948.

MICHAEL J. ROCHE,
United States District Judge.

[Endorsed]: Filed Dec. 7, 1948. [27]

[Title of District Court and Cause.]

ASSIGNMENTS OF ERROR

Libelant, United States of America, hereby assigns as error in the proceedings, orders, decision and judgment of the District Court in the above-entitled action, the following:

1. That the District Court erred in making and entering the findings of fact, conclusions of law, and order for judgment in favor of intervenor and against the libelant United States of America, made and entered in the above cause.

2. That the District Court erred in failing and refusing to find that the libelant United States of America was entitled to the forfeiture of the above-described respondent One 1947 Cadillac Sedanette Automobile. [28]

3. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that the respondent, One 1947 Cadillac Sedanette Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, was in the illegal possession of Kado Barrow.

4. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that Everett Brown did not at any time, expressly or impliedly, authorize Kado Barrow to have possession of said 1947 Cadillac Sedanette Automobile, and that Kado

Barrow was in illegal possession of said 1947 Cadillac Sedanette Automobile on March 24, 1948, or at any other time.

Dated: December 7, 1948.

/s/ FRANK J. HENNESSY,
United States Attorney,

/s/ JOSEPH KARESH,
Assistant United States
Attorney,

/s/ ROBERT F. PECKHAM,
Assistant United States
Attorney,
Attorneys for Libellant
United States of America.

[Endorsed]: Filed Dec. 7, 1948.

[Title of District Court and Cause.]

CITATION ON APPEAL

To Jack Andrade, the intervener herein, and to
Fred A. Watkins, his proctor:

Whereas, the United States of America, libellant above, has lately appealed to the United States Court of Appeals for the Ninth Circuit from the entry of a decree denying forfeiture of the above-described respondent as prayed for in libellant's libel of information, which said decree was entered on September 9, 1948, in the District Court of the United States for the Northern District of California;

You are, therefore, hereby cited to appear before the said United States Court of Appeals for the Ninth Circuit, to be held [30] in the City and County of San Francisco, State of California, at the next term of said Court thirty days after the date of this citation, to do and receive what may appertain to justice to be done in the premises.

Given under my hand in the City and County of San Francisco, State of California, in the Ninth Circuit, on the 7th day of December, 1948.

MICHAEL J. ROCHE,
United States District Judge.

(Admission of service.)

[Endorsed]: Filed Dec. 8, 1948. [31]

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO DOCKET

Good cause appearing therefor, It Is Hereby Ordered that the libelant-appellant herein may have to and including the 8th day of December, 1948, to file the record on appeal herein in the United States Court of Appeals in and for the Ninth Circuit.

Dated: October 15, 1948.

LOUIS E. GOODMAN,
United States District Judge.

[Endorsed]: Filed Oct. 15, 1948. [32]

[Title of District Court and Cause.]

LIBELANT'S DESIGNATION OF APOSTLES
ON APPEAL AND PRAECIPE THEREFOR

To Fred A. Watkins, Esq., 111 Sutter Street, San Francisco 4, California, proctor for intervener Jack Andrade; and

To C. W. Calbreath, Clerk of the United States District Court for the Northern District of California:

Libelant hereby designates and requests that the record on appeal in the above-entitled action shall include:

1. The Libel.
2. Motion to Intervene as Defendant.
3. Order Granting Leave to File Answer in Intervention.
4. Answer.
5. Reporter's entire Transcript of Testimony as taken Friday, August 13, 1948, and Friday, August 27, 1948. [33]
6. The findings of fact and conclusions of law as submitted by intervener, and signed and filed by the Court.
7. Libelant's proposed amendments to the findings of fact and conclusions of law of intervener.
8. Order denying forfeiture.
9. Notice of entry of judgment.
10. Notice of appeal.
11. Order extending time to docket.

12. Petition for an order allowing appeal.
13. Assignments of error.
14. Citation on appeal.
15. Praecipe for apostles on appeal.
16. Order allowing appeal.

/s/ FRANK J. HENNESSY,
United States Attorney,

/s/ JOSEPH KARESH,
Assistant United States
Attorney,

/s/ ROBERT F. PECKHAM,
Assistant United States
Attorney,
Attorneys for Libelant
United States of America.

[Endorsed]: Filed Dec. 7, 1948. [34]

District Court of the United States,
Northern District of California

CERTIFICATE OF CLERK

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 34 pages, numbered from 1 to 34, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of *United States of America vs. One 1947 Cadillac Sedanette Automobile, etc., No. 25173-R*, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Ten Dollars and Forty Cents (\$10.40) and that the said amount has not been paid to me by the Attorneys for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 9th day of December, A.D. 1948.

(Seal)

C. W. CALBREATH,
Clerk. [35]

[Title of District Court and Cause.]

CITATION ON APPEAL

To Jack Andrade, the intervener herein, and to
Fred A. Watkins, his proctor:

Whereas, the United States of America, libellant above, has lately appealed to the United States Court of Appeals for the Ninth Circuit from the entry of a decree denying forfeiture of the above-described respondent as prayed for in libellant's libel of information, which said decree was entered on September 9, 1948, in the District Court of the United States for the Northern District of California;

You are, therefore, hereby cited to appear before the said United States Court of Appeals for the Ninth Circuit, to be held [36] in the City and County of San Francisco, State of California, at the next term of said Court thirty days after the

date of this citation, to do and receive what may appertain to justice to be done in the premises.

Given under my hand in the City and County of San Francisco, State of California, in the Ninth Circuit, on the 7th day of December, 1948.

/s/ MICHAEL J. ROCHE,

United States District Judge.

(Acknowledgment of Service.)

[Endorsed]: Filed Dec. 8, 1948. [37]

In the Southern Division of the United States
District Court for the Northern District of
California

Before: Hon. Michael J. Roche, Judge.

No. 25173-R

UNITED STATES OF AMERICA,

Libellant,

vs.

ONE 1947 CADILLAC SEDANETTE AUTOMOBILE, Motor No. 8431298, Serial No. 8431298,
its tools and appurtenances,

Respondent,

JACK ANDRADE,

Intervener.

Friday, August 13, 1948

Appearances: For the United States: Joseph Karesh, Esq., and Robert F. Peckham, Esq., Assistant United States Attorneys. For the Intervener: Fred A. Watkins, Esq.

The Court: Proceed.

Mr. Peckham: May it please the Court, this is an action brought by the United States as a result of the seizure of a 1947 Cadillac sedanette. The registered owner of the sedanette, the government will show, has been convicted of narcotics violation in Judge Goodman's Court and is now serving a term. [1*]

The Government will show that this action is brought, Your Honor, under Title 49, Section 781 and 782 of the United States Code. The Government will show that on the 24th of March the agents seized this automobile and under Section 781 which reads in the alternative, the Government will show that the car was being used to facilitate the transportation and concealing and possession and sale for the contraband articles, the narcotics.

The car is now in the custody of the District Supervisor of the Bureau of Narcotics. I think possibly counsel for the intervener and the Government can stipulate to the narcotics without calling the chemist.

Mr. Watkins: We will stipulate that the chemist would testify that whatever was involved was narcotics.

Mr. Karesh: Here they are. I think they should be identified.

Mr. Watkins: We have no reason to believe otherwise.

* Page numbering appearing at foot of page of original certified Reporter's Transcript.

Mr. Peckham: Could we then mark for identification this as Government's Exhibit 1 for identification?

Mr. Watkins: So stipulated.

Mr. Peckham: We will ask that they be received for identification. I would like to ask they be marked separately because they relate to separate counts. I would like to mark them separately.

The Court: Separate what? [2]

Mr. Peckham: Separate sales of narcotics.

The Court: We are not concerned with the sales, are we?

Mr. Peckham: Yes, Your Honor. The basis of the condemnation of the car is that narcotics were sold in the car.

The Court: All right.

Mr. Peckham: What is now marked Exhibit 3 dated February 22, 1948.

The Court: One for identification.

(The envelope referred to was marked United States Exhibit No. 1 for identification.)

Mr. Peckham: The exhibit which was written on the envelope "Exhibit 4, 2/24/48," may that be marked next in line for identification?

(Envelope referred to was marked United States Exhibit No. 2 for identification.)

Mr. Peckham: The envelope that has "Exhibit 5" on it and dated "February 26, 1948," we will ask that be marked as Exhibit next in order for identification.

(Envelope referred to was marked United States Exhibit No. 3 for identification.)

Mr. Peckham: The envelope that has "Exhibit 8" marked on it and dated "March 23, 1948," be marked next in order for identification.

(Envelope referred to was marked United States Exhibit No. 4 for identification.) [3]

Mr. Peckham: For the record, Your Honor, United States Exhibit 1 for identification contains six capsules of heroin, two grains each. United States Exhibit 2 for identification contains six capsules or 12 grains of heroin. United States Exhibit 3 for identification contains six gelatin capsules which contain two grains of heroin each, a total of 12 grains wrapped in tinfoil and sealed with scotch tape. U. S. Exhibit 4 for identification contains four gelatin capsules containing eight grains of heroin wrapped in cellophane and tinfoil; no marks or label. The record will show that these exhibits for identification were received by the United States chemist for analysis from agents of the Bureau of Narcotics of the United States of America, the names being T. E. McGuire, E. P. Bertin and G. O. Coffill.

SHELBOURNE HOLMES

called for the United States; sworn.

Q. (By the Clerk): Will you state your name to the Court? A. Shelbourne Holmes.

Direct Examination

Q. (By Mr. Peckham): Mr. Holmes, are you an employee of the State of California?

A. Yes, sir.

Q. In what capacity are you employed?

A. In the office of Registration, Department of Motor Vehicles. [4]

Q. You have under your control the records pertaining to one Cadillac, 1947 Cadillac sedanette, license No. 99N205?

A. I do.

Q. Do you have those records with you?

A. I do.

Q. Who is the owner of the automobile, according to the records that you have?

A. Registered owner is Everett Brown.

Q. Who is the legal owner?

A. Pacific Finance Corporation of California, 928 Van Ness Avenue, San Francisco.

Q. What description of the automobile is shown by your records, if any?

A. No. 99N205, engine No. 8431298, 1947 Cadillac 8, five-passenger coupe.

Q. Any other description?

A. No, sir. Model 62, that is the model number.

Q. The license number is 99N205?

A. Yes, sir.

Mr. Peckham: That is all. Do you have any questions?

Mr. Watkins: No, I have not.

The Witness: May I substitute the photostatic copies for that original?

The Court: No objection?

Mr. Peckham: No. [5]

At this time we would like to offer the record in evidence. Is there any objection, Mr. Watkins, to the photostatic copy?

Mr. Watkins: No.

Mr. Peckham: Well, these will be introduced and marked as Government's Exhibit for evidence, Your Honor.

The Court: They may be admitted and marked.

(The records of the Department of Motor Vehicles were marked in evidence as U.S. Exhibits 5, 6, 7 and 8.)

GOVERNMENT'S EXHIBIT No. 5

State of California
Department of Motor Vehicles
Division of Registration

I hereby certify, that the attached photograph is a correct copy of the original document on file in the Department of Motor Vehicles. (Number of photographs, if more than one, 2.)

Attest my hand and the seal of the Department of Motor Vehicles, this 12th day of August, 1948.

/s/ THOMAS MALONEY,
Registrar of Vehicles.

REGISTRATION CARD AUTOMOBILE CALIFORNIA 1947

DEPARTMENT OF
MOTOR VEHICLES

DIVISION USE ONLY

99N20

Division Use Only
201765

RF	6	RF	
LF	39	LP	
T		RE	
D			
TL	45		

Residence, County of

CODE

NAME	Everett Brown			DATE	FEB 4 1948	CODE	38-SF
ADDRESS REGISTERED OWNER	1430 O'Farrell St San Francisco Calif						
Registration No.	99N 205	Engine No.	8431298				
Make & Cyls.	Cad 8	Body Type.	5P Cpe				
Date First Sold	1947	Year Model.					
Date Issued.	12-3-47	Vehicle Model.	62				
Serial No.	Same	Regis. Fee \$.	T 1.00				
Previously Registered In	Ill	License Fee \$.					
		CLASS	AB-47				

LEGAL OWNER OR LIEN HOLDER OF RECORD WITH DEPT.	Pacific Finance Corp of Calif 928 Van Ness Ave San Francisco 9, Calif
---	---

Total Fees 1948 \$	42	Is vehicle garaged in an incorporated city?	YES OR
		If yes, name city	S.F.

IMPORTANT

PLATES. Plates assigned to vehicle described on face hereof are nontransferable and expire midnight, December 31, 1947.

REGISTRATION CARD. This Registration Card shall be signed by the owner and shall be fully displayed in plain sight in the driver's compartment of the vehicle described on face hereof.

TRANSFER OF OWNERSHIP. Upon the sale of the vehicle described on the face hereof this Registration Card and the Ownership Certificate properly endorsed shall be delivered to the buyer. The seller shall immediately notify the Department in writing of the sale giving the date of sale, the name and address of the buyer and the make, engine, and license number of the vehicle. The buyer, within ten days, shall apply to the Department for transfer of ownership.

REMOVAL OF LEGAL OWNER. Upon completion of payments to a bank, finance company, or other legal owner, the owner shall present the Ownership Certificate and Registration Card to the Department for removal of the legal owner's name. This must be done within ten days after receipt of the Ownership Certificate.

RENEWAL OF REGISTRATION. This Registration Card is your application for renewal of registration for 1948. Annual renewal period is from January 1 to February 4, 1948, inclusive. Renewal must be applied for and fees paid by midnight, February 4; otherwise, penalties shall be assessed.

Personal checks NOT acceptable. Applications mailed for renewal MUST be accompanied by MONEY ORDER, CASHIER'S CHECK or CERTIFIED CHECK.

SIGNATURE OF REGISTERED OWNER

RECEIVED
FEB 11 1948
FEB 11 1948

[Printer's Note]: Government's Exhibit No. 6 is similar to Exhibit No. 5 reproduced on page 48 of this Record.

GOVERNMENT'S EXHIBIT No. 7

State of California
Department of Motor Vehicles
Division of Registration

I hereby certify, that the attached photograph is a correct copy of the original document on file in the Department of Motor Vehicles. (Number of photographs, if more than one, 24.)

Attest my hand and the seal of the Department of Motor Vehicles, this 12th day of August, 1948.

/s/ THOMAS MALONEY,
Registrar of Vehicles.

REGISTRATION CARD

REGISTRATION CARD
AUTOMOBILE
CALIFORNIA
1947

Residence. Country of

Name	Sterling Edwards	Engine No	8431298	5P	CP6	62	License	26.25
Address	908 N Bedford Dr	Body Type					Fee	3.00
Registered Owner	Beverly Hills Calif	Model					Reg.	3.00
		Vehicle					Class	EE
Registration No.	99N205							
Make a C/y.	Cad 8							
Date Sold	1947							
Date Insured	6-26-47							
Serial No.	Same							
Registered in	Ill							

LEGAL OWNER
OF LEW HOLLER
OF RECORD
WORTHY DEED

Hertha Edwards

Total Fees 1948 \$42.00	Is vehicle garaged in an incorporated city? <u>YES</u> TAX OR NO
	It was _____ LA

IMPORTANT

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TRANSFER OF OWNERSHIP. Upon the sale of the vehicle described on the face hereof this Registration Card and the Ownership Certificate properly endorsed shall be delivered to the buyer. The seller shall immediately notify the Department in writing of the sale giving the date of sale, the name and address of the buyer and the make, engine, and license number of the vehicle. The buyer, within ten days, shall apply to the Department for transfer of ownership.

REMOVAL OF LEGAL OWNER. Upon completion of payments to a bank, finance company, or other legal owner, the owner shall present the Ownership Certificate and Registration Card to the Department for removal of the legal owner's name. This must be done within ten days after receipt of the Ownership Certificate.

RENEWAL OF REGISTRATION: This Registration Card is your application for renewal of registration for 1948. Annual renewal period is from January 1 to February 4, 1948, inclusive. Renewal must be applied for and fees paid by midnight, February 4; otherwise, penalties shall be assessed.

Personal checks NOT acceptable. Applications mailed for renewal **MUST** be accompanied by **MONEY ORDER, CASHIER'S CHECK or CERTIFIED CHECK.**

947
isco

**1947
AUTOMOBILE
CALIFORNIA
CERTIFICATE OF
OWNERSHIP**

Residence County of

Make	Model	Year	Body Type	Color	Registration No.	Plate	Cost
Stearling Edwards	1935	1935	Motor Vehicle	Black	99N205	84-31298	19-1A
Assess	908 N Bedford Dr				99N205	5P Cpe	
Owner	1926-47				9-26-47	62	
	1947				Same	3.00	
	Same				Ill	3.00	
	Ill				12-31-51	EE	
License	Owner						
on Transfer							
for Record							
and Bond							

42-87-4200-1-21106-1
Sua. No. 2151
NO FURTHER
yep

Endorsements for Transfer of Ownership—Read Carefully

The registered owner as shown on other side of this Certificate releases his interest by signing this. The legal owner releases his interest by signing line 8. If one person is both legal and registered owner, sign both lines. Purchaser, if dealer, must follow directions lines 9 and 4. Purchaser, if not dealer, must follow directions lines 5, 6, 7 and 8 and give date of purchase. A set legal owner's must sign on line 9.

TRANSFER DUE IN 10 DAYS All signatures must be in ink **EACH TRANSFER \$1.00**

PART A Return of Ownership or Interest	PART B Date of Death Acquiring Vehicle Through Trade or Inheritance	PART C Application for Registration of Recipient to Purchaser	PART OF PURCHASE	RECEIVED
1. <u>Signature of Owner or Interest</u> <i>John J. McQuinn</i>	2. <u>Signature of Legal Owner</u> <i>John J. McQuinn</i>	3. <u>HOAMES TRUCK CO.</u> Name of the party who purchased the vehicle Address <i>1000 Broadway, New York 100</i> City <i>New York</i> State <i>NY</i> Zip <i>10003</i>	4. <u>EVERETT ROBERTSON</u> Print or stamped name of recipient Address <i>1660 1st St., New York 10003</i> City <i>New York</i> State <i>NY</i> Zip <i>10003</i>	5. <u>Signature of Purchaser</u> <i>John J. McQuinn</i>
6. <u>Signature of Recipient</u> <i>John J. McQuinn</i>	7. <u>Street Address</u> <i>300 1st St., New York 10003</i>	8. <u>Is vehicle garaged in an incorporated city, town or village?</u> <i>Yes</i>	9. <u>PACIFIC FINANCE CORPORATION OF CALIF.</u> Name of the financial institution (if any) <i>928 VAN NESS AVE., SAN FRANCISCO, CALIF.</i>	10. <u>Street Address</u> <i>2100 Market St., San Francisco, Calif.</i>

Within 10 days after legal owner receives return, he must, if there is any change in ownership or interest, this Certificate.



DEALER'S REPORT OF SALE AND TRANSFER USED VEHICLE

D. N. 453834

Complying with the provisions of the Vehicle Code, notification is hereby given to Division of Registration, Department of Motor Vehicles, State of California, that undersigned dealer has transferred vehicle described below to:

Is vehicle garaged in an incorporated city?

Yes ☒ No ☐ If yes, name city

Name of Purchaser

Everett Brown

Residence or

Business Address

1430 O'Farrell St.

City

County

S. F.

Make of Vehicle

Cadillac

Engine No.

8431298

Body type

Sedan

Model

62

Year

1947

Serial No.

same

Last registered in

47

License No.

49N205

Unladen Weight, pounds (Commercial type vehicles only)

*Maximum Gross Weight, pounds (Commercial type vehicles only)

Have you checked Engine and Serial Numbers shown on Ownership Certificate against those on vehicle?

Yes ☒ No ☐

Do numbers agree?

Yes ☒ No ☐

Dealer's Name

JACK ANDRADE

Address

810 VAN NESS AVE. - S. F.

Dealer's No.

3485

10-24-47

1947 ORIGINAL

No. CP49912

Expiration Date June 1, 1948

(Valid six months from date issued)

Issued to

Everett Brown

California address

1430 O'Farrell St., San Francisco

Make and cyls.

Cadillac

Engine No. 8431298

Serial

Body type Cpe

Issued at

S. F.

By

M. Page

Date issued

12/1/47

Fee \$

15.00

Location of vehicle when permit issued

S. F.

7.50

22.50

Signature of Permittee

DO NOT REMOVE THIS PERMIT UNTIL VEHICLE IS PROPERLY REGISTERED IN CALIFORNIA

DEPARTMENT OF MOTOR VEHICLES

Report of Deposit of Fees

Receipt No. 268006

Office _____

Holdout No. Z 315

Date 10-29-47

NAME Ereute Brown

ADDRESS 1430 C. Farrell St. CITY SF

MAKE Cadillac TYPE SPC ENGINE No. 8431298

RF		
RP		
SF		
SP		
LF		
EP		
TP		
D		
FPR		
TL		

Important! A deposit of fees is being accepted which will be applied on the application for registration of the vehicle described above, only when the application is presented in its complete form. THIS DEPOSIT OF FEES DOES NOT CONSTITUTE AN APPLICATION FOR CALIFORNIA REGISTRATION. You are hereby informed additional documents are required (see items checked below) to complete your application.

These documents must be submitted not later than 60 days together with the document presented today either this office, or at our office at 160 S. Van Ness Ave.

SF
City

Address

[Disregard all unchecked items]

- 1—Registration Card from state in which last registered/or duplicate thereof.
- 2—Title from state last registered/or duplicate thereof.
- 3—Title from state last registered properly endorsed on the reverse side for transfer to you.
- 4—Notarized bill of sale from whom vehicle was purchased showing payment in full.
- 5—Notarized bill of sale to last registered owner from whom he purchased vehicle, showing payment in full.
- 6—Original lease contract or chattel mortgage marked paid and countersigned.
- 7—Permission from lienholder to register vehicle in California properly signed by both lienholder and a subscribing witness (Form 296).
- 8—Corrected registration showing proper motor and serial numbers.
- 9—Corrected title showing proper motor and serial numbers.
- 10—Corrected notarized bill of sale containing statement "this vehicle is guaranteed to be free and clear of liens or encumbrances."
- 11—Engine verification by authorized employee, D.M.V. (Form 191A).
- 12—Last issued California registration certificate or duplicate thereof.
- 13—Last issued California ownership certificate or duplicate thereof.
- 14 #2250 Caravan due.
- 15—

If application is not completed within 60 days, the money will be transferred to the State Treasury and no ownership certificate and no registration card will be issued.

CLERK ey

APPLICANT John (Jack) Andrade
Per Jan.

CLEARANCE NO.	STATE OF CALIFORNIA DEPARTMENT OF MOTOR VEHICLES HOLD OUT	SUSPENSE NO. E 3151
S. F. OFFICE		WORK OF 10-29-47
REGISTERED OWNER'S NAME Everett Brown		
ADDRESS 143 O O'Farrell Street San Francisco		
STICKER OR TAB. NUMBER	LICENSE NUMBER	99N 205
MAKE OF VEHICLE	ENGINE NUMBER	Cadillac 8 8431298
REASON FOR HOLD OUT Incomplete		AMOUNT SUSPENDED \$ 1.00
CLERK eg		ADDITIONAL FEE
FINAL DISPOSITION		SUB- TOTAL \$
DATE CLEARED	BY	AMOUNT REFUNDED
		AMOUNT DUE \$
STOCK NO. 494		REDIFORM-PATD.-PACIFIC MANIFOLDING BOOK CO., INC., EMERYVILLE, CAL.

MT-6-47 59890 1-557-577		17.00
R. R. HUBER		2833387
(TYPEWRITE OR PRINT FULL NAME, USE BLACK INK)		
Street Address 2136 LINCOLN PARK WEST		
CHICAGO	State ILLINOIS	County COOK
Name of Car CADILLAC	Style of Body 5-COPE	Year Model 1947
Factory No. NONE	Engine No. 8431298	
No. and Bore of Cyl.	Horse Power 39.2	
WRITTEN SIGNATURE of Owner R. R. Huber		
STATE OF ILLINOIS		
LICENSE PLATES bearing above number are assigned to owner named herein for motor vehicle described for year ending December 31, 1947.		1947
EDWARD J. BARRETT, Secretary of State		

DEPARTMENT OF MOTOR VEHICLES
DIVISION OF REGISTRATION

Statement of One and the Same Person

STATE OF CALIFORNIA

COUNTY OF LA

The undersigned hereby states that—

I, Geo Sterling Edwards
STERLING Edwards
and
are one and the same person.

This statement is made in support of the signatures appearing on the documents submitted for registration and/or transfer of—

Make Cadillac Cylinders 8 Engine No. 8931298

Signature of
Subscribing
Witness

[SIGNED]

Address Automobile Club of Southern California
City BEVERLY HILLS OFFICE

Notice — Transfer Owners Interest In and Possession of Motor Vehicle

STATE OF CALIFORNIA
DEPARTMENT OF MOTOR VEHICLES
DIVISION OF REGISTRATION

REGISTRAR OF VEHICLES

Sacramento, California.

This is to advise you that on Oct 24 1947
I, as registered owner of the vehicle described below, sold or transferred my interest in and possession of said vehicle to:

Name Everett Brown
Address 1430 O'Farrell St
City S. F.
License No 99N205 Engine No 8431298
Make 47 Cadillac Type Sedan

(Signed)

Address JACK ANDRADE
810 VAN NESS AVE - S. F.

Section 177 of the California Vehicle Code requires the filing of this notice immediately upon sale or transfer of a vehicle previously registered in this state. Failure to do so constitutes a misdemeanor. (Section 760.)

No. CP49912

Expiration Date June 1, 1948

(Valid six months from date issued)

Issued to Everett Brown
California address 1430 O'Farrell St., San Francisco
Make and cyle Cadillac Engine No. 8431298
Serial Qps Body type Qps
Issued at S. F. By M. Page
Date issued 12/1/47 Fee \$ 15.00
Location of vehicle when permit issued S. F. 7.50
22.50
Signature of Permittee

VERIFICATION OF VEHICLE
 I HEREBY CERTIFY, That I have examined the vehicle described on face of
 this application and I find the description to be as follows:

Cadillac ENGINE No. 8431298
1947 BODY TYPE Spars cpe
 LICENSE No. 1557-577 STATE OF ILL
Gas TYPE SAFETY GLASS
 line No. appear to have been altered or tampered with? 16
 No. stamped on Engine Block? YES
 of verifier MSand Title
 own Automobile Club of Southern California
 REMARKS

A.C. of B.O.

JUN 3 1947

BEVERLY HILLS

47 Cal Reg

CARAVAN OR
 EMERGENCY
 PERMIT NUMBER



19 APPLICATION
 FOR CALIFORNIA
 REGISTRATION OF 47

REGISTRATION

NON-RESIDENT AUTOMOBILE

Made to State of California

DEPARTMENT OF MOTOR VEHICLES, DIVISION OF REGISTRATION

Is vehicle garaged in an incorporated city? YES If so, name city LA
 Name STERLING Edwards
 P. O. box or 908 No 15th St
 street address LA
 City LA County LA
 Make and cyl. Cadillac Engine No. 8431298
 When was vehicle first registered? 1947 Body type Spars cpe
 Serial No. 62 Model, name or number 62
 Motor power Gas In what State was vehicle first registered? ILL
 Last registered in State of ILL for 1947 Under license Number 1557-5
 Was vehicle new when purchased by you? 16 Date of purchase by you May 24

Legal owner or lien holder
 Street address
 City State

Division will assume applicant is legal owner if no legal owner's name is given

Is vehicle to be used for transportation of persons or property for hire?
 If answer is YES, give Board of Equalization number
 Was vehicle brought to California for sale or resale?
 Are you in business or gainfully employed in California?
 If so, give starting date
 Have you established residence in California?
 On what date did you become a resident of California?
 FOR MISCELLANEOUS NOTATIONS
 CR-53270

Rated for month of May
 Regis. Fee . . . 30
 Penalty . . . 2
 License Fee . . . 26
 Penalty . . . 3
 Service Fee . . . 3
 Penalty . . . 3
 . . . 3
 . . . 3
 . . . 3
 . . . 3

Date vehicle entered California May 25 1947
 SUSPENSE SLIP TOTAL FEES DUE 1947 VLP CLASS RATE CL
42- HE47 OTW

THE UNDERSIGNED BEING DULY SWORN, deposes and says that all of the statements made in this application are true and correct and that to the best of his knowledge and belief the vehicle therein described complies with the Vehicle Code of California.

STERLING Edwards
 Personal Signature of Applicant

Authorized Agent for
 Subscribed and sworn to before me this 3 day of June 1947
 My Commission Expires June 30 1948

Application received at DA 1414 Office June 3 1947
 State of ILL Lic. Plate No. 1557-577 Taken
 State of ILL Notified by mail June 3 1947
 (OVER)

THE SECRETARY OF STATE

I, EDWARD J. BARRETT, Secretary of State of the State of Illinois, do hereby certify that application has been made to me for a certificate of title of a motor vehicle described as follows:

[illegible]

Applicant has stated under oath that said applicant is the owner of said motor vehicle and that it is subject to the above liens and encumbrances and no others.

I do further certify that I have used reasonable diligence in ascertaining that the facts stated in said application for a certificate of title are true. Therefore, I certify that the above named applicant has been duly registered in my office as the lawful owner of the above described motor vehicle, and it appears upon the official records of my office that at the date of the issuance of this certificate said motor vehicle is subject to the liens hereinbefore enumerated.

IN WITNESS WHEREOF, I HAVE HERETO AFFIXED MY SIGNATURE AND THE

GREAT SEAL OF THE STATE OF ILLINOIS, AT SPRINGFIELD.

Edward J. Barrett
EDWARD J. BARRETT

EDWARD J. BARRETT,
Secretary of State.

(Keep this Certificate of Title in a safe place. Do not accept title showing any erasures, alterations or mutilations.)



To be filled in by seller and delivered with vehicle to the purchaser. Application for new certificate of title must be made and immediately forwarded to the Secretary of State with fee of 50¢

ASSIGNMENT OF TITLE

FOR VALUE RECEIVED I (WE) HEREBY SELL AND ASSIGN TO

GEO. STEVENS & COMPANY 205 208 N. DEARBORN STREET CHICAGO
(Name of purchaser) (Address) (City) (State)

The motor vehicle described on the reverse side of this certificate and I (we) hereby warrant the title of the said motor vehicle to be free from all liens and encumbrances except as follows:

Amount of Lien \$ NONE Kind of Lien —
(If no lien use word "none") (Mortgage, Note, Conditional Sale, etc.)

In favor of — (Holder of lien) — (Address) — (City) — (State)

Subscribed and sworn to before me this 19 day of May 1947 Signature [Signature] Seller
(Notary Public) (SEAL)

My Commission Expires June 10th, 1948

To be filled in by Illinois Dealer only, and then delivered with motor vehicle to the purchaser. Application for new certificate of title must be made and immediately forwarded to the Secretary of State with fee of 50¢.

RE-ASSIGNMENT BY DEALER

FOR VALUE RECEIVED I (WE) HEREBY SELL AND ASSIGN TO

— (Name of purchaser) — (Address) — (City) — (State)

The motor vehicle described on the reverse side of this certificate and I (we) hereby warrant the title of the said motor vehicle to be free from all liens and encumbrances except as follows:

Amount of Lien \$ — Kind of Lien —
(If no lien use word "none") (Mortgage, Note, Conditional Sale, etc.)

In favor of — (Holder of lien) — (Address) — (City) — (State)

Used car dealer's license number — Signature — Dealer
JUN 3 1947

Dealer's plate number — By — Sign here as Pres., V-Pres., Sec'y., Treas. or Authorized Clerk

Subscribed and sworn to before me this — day of — 194— (Notary Public) (SEAL)

[Printer's Note]: Government's Exhibit No. 8 is similar to Exhibit No. 7, reproduced on pages 50 to 58 of this Record.

THOMAS E. McGUIRE

called by the Government, sworn.

Q. (By the Clerk): Will you state your name?

A. Thomas E. McGuire.

Direct Examination

Q. (By Mr. Karesh): Mr. McGuire, you are an employee of the United States Government?

A. I am.

Q. In what capacity?

A. As a federal narcotics agent.

Q. That is in the Treasury Department?

A. Yes.

Q. How long have you been employed there?

A. 20 years.

Q. How long have you been assigned to the San Francisco office?

A. The past six years. [6]

Q. What are the duties of a narcotics agent of the United States?

A. The suppression and regulation of narcotics in the legal and the illegal traffic.

Q. Is heroin a narcotic? A. Yes.

Q. What does heroin come from?

A. It is a derivative of opium.

Q. In the apprehension of narcotics violators you make use of an informer? A. Yes, we do.

Q. Calling your attention to February 22, 1948, did you have under your observation a Cadillac sedanette with license No. 99N205?

(Testimony of Thomas E. McGuire.)

A. Yes, I did.

Q. Where did you first observe the Cadillac sedanette?

A. The Cadillac was parked within about 50 feet of 1430 O'Farrell Street, to the east side of 1430.

Q. 1430 O'Farrell Street, San Francisco?

A. Yes.

Q. Do you remember about what time of day it was?

A. It was close to 1:00 o'clock in the afternoon.

Q. Calling your attention to February 24, 1948, did you have under your observation this Cadillac sedanette license No. 99N205? [7] A. Yes.

Q. Where?

A. At the same location. May I ask if that is February 22?

Q. February 24.

A. Yes. On February 24 likewise I had observed the Cadillac automobile in front of 1430 O'Farrell Street or close to the vicinity of the front of 1430 O'Farrell Street.

Q. Calling your attention to February 26, 1948, did you have under your observation a Cadillac sedanette license No. 99N205? A. Yes, I did.

Q. Where did you first see it that day?

A. In the same location, in or around 1430 O'Farrell Street.

Q. Calling your attention to March 23, 1948, did you have under your observation and surveillance a Cadillac sedanette license No. 99N205?

A. Yes, I did.

(Testimony of Thomas E. McGuire.)

Q. Where did you first observe the car?

A. In the vicinity of 1430 O'Farrell Street, San Francisco.

Q. When after March 23, 1948, if you did see the Cadillac sedanette, did you observe it?

A. After March 23, I was instrumental in the seizing of the car on March 24.

Q. 1948? A. 1948.

Q. Where did you see the car? [8]

A. It was in the same—in front of 1430 O'Farrell.

Q. Do you know who lives at 1430 O'Farrell Street? A. Yes, I do.

Q. Was Everett Brown living there?

A. Everett Brown.

Q. Was Kado Barrow living at 1430 O'Farrell Street? A. Yes, he did; both of them.

Q. Prior to February 22, 1948, do you know whether or not Everett Brown was ever convicted of a violation of the Narcotics statute?

A. Yes, I do.

Q. In the District Court of the United States; is that correct? A. Correct.

Q. Do you know on how many occasions?

A. He was convicted on two counts, pleaded guilty on two counts in 1943 for the sale of narcotics.

Q. Do you know when that date was?

A. I am not sure. I have heard it testified, and I heard the defendant—I could refresh my memory. I believe it was 1943 or 1944.

(Testimony of Thomas E. McGuire.)

Q. November 22, 1943?

A. That is correct. I heard him testify to that fact and his own admission and he also told me, and I was available to in this office at the time he was convicted.

Mr. Karesh: We would like to offer at this time a [9] certified copy of the conviction of Everett Brown for the sale of marijuana in the District Court of the United States for the Northern District of California, November 22, 1943.

The Court: What for?

Mr. Karesh: The purpose is to show the owner of the car, Everett Brown, was a known peddler of narcotics, which, of course, would be permissible, we believe, in any condemnation suit of a car.

The Court: In 1943?

Mr. Karesh: Yes. In other words, Your Honor, for the owner of a car to attempt to get back the car from the Bureau of Narcotics, he would have to show that the person who had legal title had a clean record and Everett Brown did not have a clean record.

(The objection was argued by counsel.)

The Court: It will not assist us here until you have laid the foundation for the purpose of the documents. I will sustain the objection.

Mr. Karesh: Until we show there was narcotics involved in transportation in the car, we will withdraw the offer of this document at this time and will offer it later.

The Court: Very well.

(Testimony of Thomas E. McGuire.)

Q. (By Mr. Karesh): Calling your attention to February 22, 1948, did you see an informer on that day? A. Yes, I did. [10]

The Court: What day?

The Witness: February 22, 1948.

Q. (By Mr. Karesh): Did you see the informer on February 24, 1948? A. Yes.

Q. February 28, 1948? A. I did.

Q. March 23, 1948? A. Yes, I did.

Q. Where did you first see him?

A. On each occasion I met him close to my office and brought the informer to my office in the Empire Hotel Building here in the City and County of San Francisco.

Q. Did you search him to see whether he had any narcotics in his possession at that time?

A. In my office, yes.

Q. Did you search him on February 22, 1948, to see if he had any narcotics in his possession?

A. Yes.

Q. February 24?

A. Yes; on each occasion.

Q. February 28? A. Yes.

Q. March 23? A. Yes. [11]

The Court: Search whom?

A. The informer.

Q. (By Mr. Karesh): Any narcotics in his possession?

A. No narcotics were in his possession.

Q. Now, tell us what you did with the informer?

A. On each one of the specified dates——

(Testimony of Thomas E. McGuire.)

The Court: Fix the time and place and persons present.

Q. (By Mr. Karesh): Who was present when you searched the informer?

A. Narcotic Agent Bertin and Coffill and myself in my office with the informer known as Willie Smith.

The Court: What time?

A. Approximately 1:00 or 12:30. It was approximately 12:30 on February 22, 1948.

Mr. Karesh: We will relate each instance day by day, February 22, 24, 26 and March 23.

Q. With relation to February 22, 1948, tell us what happened after you searched the informer and found he had no narcotics?

A. I then dialed the telephone number Walnut 1-6659.

Q. Do you know whose number that is?

A. Yes. That is the telephone number of Everett D. Brown at 1430 O'Farrell. On an extension of my telephone at my desk the informer was heard to have a conversation with a man later learned to be Kado Barrow at the telephone, as I recall it, Walnut 1-6659 on February 22. The informer explained to the [12] man answering that telephone at the other end that it was Smitty, his name was Smitty, and asked him if he could get six pairs of socks. Kado Barrow, or the man on the phone, replied, "All right, Smitty. Where do you want to meet me?" Smitty was told by myself to answer, "Meet me at Laguna and Fulton Streets."

(Testimony of Thomas E. McGuire.)

Q. You have said six pairs of socks. In the language of the narcotic trade, what does that mean?

A. In that particular instance it meant six capsules of heroin. The voice answered over the telephone to the informer Smitty, "I will be there within about 30 minutes." After that conversation the informer hung up the telephone and with Agent Bertin and Coffill and myself, we went to the corner of Laguna and Fulton Streets.

Q. Did you give the informer any money before that?

A. Yes. The informer was supplied with \$50 in marked government money.

Q. Continue.

A. The informer was let out of the automobile at the corner of Fulton and Laguna Streets in the City and County of San Francisco.

Q. Who else got out of the car?

A. Agent Bertin and Agent Coffill. They remained closely observing the informer and I left the vicinity and drove to 1430 O'Farrell. I observed a man whom I later learned to know [13] as Kado Barrow leave 1430 O'Farrell, enter this Cadillac automobile bearing license 99N205. I followed him as he drove in a southerly direction of O'Farrell Street until he arrived at the corner of Laguna and Fulton Streets, at which point I observed the informer entering the automobile 99N205. The car was driven on a southerly direction to Grove Street and just before the corner the informer was observed to leave the Cadillac automobile. The informer was observed walking to the

(Testimony of Thomas E. McGuire.)

direction of Agents Coffill and Bertin on that particular occasion, both of them were close together. I followed the automobile 99N205 until it returned back up to 1430 O'Farrell Street.

I then returned to where Agent Bertin and Coffill were standing with the informer Willie Smith, placed the informer Smith in my automobile with the two agents and observed the narcotics which Agent Bertin had received from the informer and we returned back to my office in which the prepared statements were made at the time of the sale detailing all the particulars of that particular sale.

Q. Now, Mr. McGuire, did you search the informer when you got him down to the office to see whether or not he had the marked government money in his possession?

A. Yes; he was searched, he was searched carefully before he left and after his return to the office. He had no money nor narcotics in his possession after he had turned over the [14] narcotics to Agent Bertin.

Q. In other words, when you first saw him he had no narcotics; you gave him the marked money. When you saw him again, he did not have the marked money and Agent Coffill turned over to you the narcotics in question.

A. That is right; or either Agent Coffill or Agent Bertin. I believe it was Coffill who retained the narcotics in each one of these incidents for transmittal to the U. S. chemist.

(Testimony of Thomas E. McGuire.)

Q. And they were so transmitted?

A. Yes.

Q. Calling your attention to February 24, 1948, did you see the informer? A. Yes, I did.

Q. Just tell us what happened on the search of the informer and giving him the money.

A. On that date, at approximately 12:00 o'clock, February 24, here in San Francisco, I met the informer, brought him to my office where I searched him carefully. He was furnished \$50. I then again dialed the telephone number Walnut 1-6659 and overheard the conversation between the informer and the voice which I learned later was Kado Barrows'. At that particular date the informer asked if he could get six pairs of socks for 50 cents. The voice answering that I later identified as Kado Barrows' said, yes, he could, and within 30 minutes after the telephone call we again placed the informer in the automobile [15] with Agent Coffill and Bertin and myself.

Q. Just a minute. At the time you searched him at the Bureau of Narcotics you took away all removables and he had no narcotics?

A. No.

Q. And the only thing he had was the money, the marked money which you gave him?

A. Yes. The informer was taken to the vicinity of Laguna and Fulton Streets and placed under the observation of Agents Coffill and Bertin at a distance while I again went to the vicinity of 1430 O'Farrell Street. I observed the man who later I learned to be Kado Barrows leave the premises

(Testimony of Thomas E. McGuire.)

at 1430 O'Farrell Street in the automobile 99N205.

Q. Cadillac sedanette?

A. Cadillac sedanette. The Cadillac was followed until it reached the corner of Laguna and Fulton Streets at which time I again observed the informer entering into the Cadillac. The Cadillac proceeded to the corner of Laguna and Fulton, within an area of 50 to 75 feet of the corner, at which time the informant was observed to leave the automobile, leave the Cadillac, and the Cadillac proceeded on. I followed it and at that particular instant, without referring to my notes, it either went to the pool hall at Post and Buchanan or it went back to 1430. I believe that was the date, without referring to my notes. [16]

Q. February 24, 1948? A. Yes.

Q. Then where did you go?

A. I then returned to the vicinity of Laguna and Grove, at which point I picked up Agent Bertin and Coffill in the government car with the informer. Then Agent Coffill had in his possession the six capsules of heroin. The informer and the other agent were taken to my office at which point the informer was carefully searched and he had no marked money nor narcotics in his possession at the time of my search.

Q. Except that which he had given Agent Coffill? A. That is correct.

Q. Calling your attention to February 26, 1948, did you see the informer on that day at your office?

A. Yes, I did.

Q. Tell us what happened on that day?

(Testimony of Thomas E. McGuire.)

A. The same procedure.

Q. About what time did you see the informer?

A. Approximately 12:00 o'clock on February 26, 1948, the informer again was searched in my office by me and all removable articles were removed and he was furnished with \$50 of marked government money. On that occasion the telephone call was made to Kado Barrows and Kado Barrows made the appointment with the—

Q. You say a phone call was made. To what number was it made? [17]

A. WALnut 1-6659. That is the phone number of Mr. Everett Brown. Kado Barrows answered and the informer made request to be supplied with six pairs of socks for 50 cents. The informer made the appointment with the man Kado Barrows to meet at Laguna and Fulton.

Q. Just a minute. You were listening in on an extension to all this conversation?

A. Yes. The informer was at one desk, while I was sitting at my desk. The man Kado Barrows spoke over the phone and the informer requested to meet him in 30 minutes and he said that he would be there. On that occasion, February 26, Agents Bertin, Coffill and I left the office with the informer, proceeded to Laguna and Fulton. We gave him the marked \$50, the informer. The informer and Agents Bertin and Coffill were let out of the government automobile in the vicinity of Fulton and Laguna while I then drove to 1430 O'Farrell Street, observed the automobile at the curb.

(Testimony of Thomas E. McGuire.)

Q. You say "automobile". You mean the Cadillac sedanette license No. 99N205?

A. That is correct. I maintained the observation of the automobile and observed the man Kado Barrow with a girl known as Ruby Slater leave the premises at 1430 O'Farrell, enter the Cadillac 99N205; that car was driven by Kado Barrow to the corner of Laguna and Fulton, at which point the informer was seen to enter the automobile, was driven to the corner of Laguna [18] and Grove Street. The informer was seen to leave the automobile and walk in the direction to where Agents Bertin and Coffill were. I observed the Cadillac automobile 99N205 being driven by this Kado Barrow.

Q. Was the lady sitting in the front or back?

A. In the front seat. The three got into the car in the front seat, that is, the informer, Ruby Slater and Kado Barrow.

The Court: Was this informer you mentioned the same informer in all these cases?

A. Yes, your Honor. He has done a series of purchases, the same informer.

The Court: All right.

The Witness: The Cadillac automobile 99N205 was observed being driven by Kado Barrow and with the young lady Ruby Slater and was followed by me from the corner of Laguna and Grove Streets to a place at Montgomery and California where the lady was observed to enter the large office building there.

(Testimony of Thomas E. McGuire.)

Mr. Karesh: Q. What is the office building?

A. I couldn't swear to the building itself. It is between Montgomery and California Streets, between Montgomery and Kearny on California. It is where one of the university clubs is, one of the clubs is in there. I later learned what the purpose of this visit was, but I can not recall what it is now. It had no—

The Court: Calling on one of the professors?

The Witness: It might be. The surveillance was continued. After the girl came out she reentered the Cadillac 99N205. I observed the car being driven by Kado Barrow and it went on to Pierce or Buchanan Street near Sutter, at which point Ruby Slater went to her home, at least entered the premises and then reentered the Cadillac automobile and was driven to 1430 O'Farrell Street.

Q. Then what did you do?

A. I rejoined Agents Bertin and Coffill. They were on the corner waiting for me. It took some three quarters of an hour for my return. Together with the informer and the two agents we returned to my office where the narcotics were taken from Agent Coffill, by Agent Coffill to me for identification, and for submission to the chemist. The informer was searched. He had no marked money in his possession nor any narcotics.

Q. Except the narcotics he had given Agent Coffill?

A. That had already been given to Agent Coffill.

(Testimony of Thomas E. McGuire.)

Q. Did you issue instructions to Agents Coffill and Bertin to remain on the spot until you came back in each instance?

A. Yes. That was the purpose of my leaving them but they were to remain there until I returned.

Q. Calling your attention to March 23, 1946, did you see the informer on that day?

A. Yes, I did.

Q. Where and when and who was present? [20]

A. On March 23 at my office I met the informer, Willie Smith, the same man throughout on the entire transactions, and he was searched and furnished with the sum of \$50 of marked government money.

Q. Just a moment. You have mentioned the name of the informer. It is the general rule the informer's identity is not disclosed but we used Willie Smith in the trial before Judge Goodman of Everett Brown and his name was mentioned there.

A. Yes. The informer placed a telephone call to Walnut 1-6659, made an engagement to meet Kado Barrow at Laguna and Grove Street. The informer was searched and furnished the \$50 of marked government money. He was taken by the agents and put in my car, the government car, taken to Laguna and Grove Streets. I went to 1430 O'Farrell, observed the defendant Kado Barrow, the man known as Kado Barrow, leave 1430 O'Farrell, enter the automobile Cadillac 99N205 and drive out to Laguna and Grove Streets at

(Testimony of Thomas E. McGuire.)

which point he picked up the informer. The informer was driven to Laguna and Grove Streets and let out of the automobile and he rejoined Agents Coffill and Bertin. I continued following the automobile and I can't swear to it but I think it returned to 1430 O'Farrell on that last occasion likewise.

Q. Your testimony is that on these dates you mentioned, you mentioned you searched the informer to see he had no money or any articles in his possession, removable articles, you found [21] he had none and you gave him the marked money, then you would drive to the spot and you would leave the informer with Coffill and Bertin and when the informer came back—

The Court: What is this, an argument now?

Mr. Karesh: I think we have gone over so much testimony, may it please your Honor, I feel there is no harm done—

The Court: Do you think that is necessary?

Mr. Karesh: No, not if your Honor doesn't; I don't think so.

The Court: I don't think so.

Mr. Karesh: Q. When did you see that Cadillac sedanette again, 99N205?

A. On March 24, 1948, here in San Francisco. I went out to 1430 O'Farrell Street. The car was parked in front of the house. I arrived on this occasion to obtain the key.

The Court: What day? A. March 24.

The Court: What time of the day or night?

(Testimony of Thomas E. McGuire.)

A. Approximately 4:00 o'clock in the afternoon.

The Court: Was that in front of the defendant's home?

A. Yes. It was at the time of the arrest of all the defendants.

The Court: What was the number?

A. 99N205—oh, 1430 O'Farrell Street.

Mr. Karesh: Q. When you arrived, you saw the car?

A. Yes. The owner of the car had the key; Everett Brown was [22] arrested—

The Court: Where is Everett Brown now?

Mr. Karesh: For the sake of the record, Everett Brown was convicted before a jury before Judge Goodman on two counts of violation of narcotic laws, sale and possession and consuming of heroin, and is now serving 15 years, the maximum, in the United States penitentiary at McNeil's Island.

The Court: You say that is the minimum?

Mr. Karesh: The maximum.

Q. Mr. McGuire, you said you identified the man as Kado Barrow, that is the person driving the car. Did he tell you his name was Kado Barrow? A. Yes.

Q. When? A. When he was arrested.

Q. You say you identified the lady in the car as Ruby Slater? A. Yes.

Q. She told you her name was Ruby Slater at the time she was arrested? A. Yes.

Q. Am I correct in stating that Ruby Slater and Kado Barrow pled guilty to the violation of

(Testimony of Thomas E. McGuire.)

the Harrison Narcotic Act, indictment No. 31334-R, and Ruby Slater and Kado Barrow in case No. 31324-G, U. S. v. Barrow. Do you know the date of that?

A. They pleaded guilty a day or two before Everett Brown, or [23] after Everett Brown. I have got the date here. I can give it to you, counsel.

Q. Yes. May 3rd 1948.

A. Ruby Slater pleaded guilty May 12, was sentenced on May 12. She pled guilty before, yes. Everett Brown was sentenced on May 21, 1948.

Q. What about Kado Barrow?

A. Kado Barrow on May 3, 1948, entered a plea of guilty and was sentenced.

Q. What happened to Kado Barrow?

A. He received five years for the sale of narcotics.

Q. He got five years for that sale on February 26?

A. Well, that was the date of the indictment. March 26.

Q. What date was the one involving Ruby Slater? A. February 24—26.

Q. That was the one jointly with Ruby Slater?

A. Yes. Likewise he had one-four, I think, on February 24.

Q. Let's get it—February 22, the first count in the indictment— A. That is February 22.

Q. 31324-G, that's right, isn't it?

A. That was on Kado Barrow.

Q. Yes.

(Testimony of Thomas E. McGuire.)

A. Well, he has two. He has 31334 and 31324.

Q. He got five years on one indictment and five years on the [24] other to run consecutively?

A. Yes.

Q. Miss Slater got a year and a day?

A. Yes.

Q. And the sentences were imposed by Judge Goodman? A. Correct.

Q. For the sale of narcotics? A. Yes.

Q. U. S. Exhibit 1, 2, 3 and 4 for identification were sent over to the chemist for analysis?

A. Yes. I identified each of them as it was submitted to me from the informer, my initials were placed on each one. This particular envelope was made in my handwriting.

Q. What are you pointing to?

A. Exhibit 2 for identification. That is my handwriting.

Q. In whose handwriting is the other exhibit?

A. 1, 2 and 4 are in Agent Coffill's writing. He is the agent who prepared them for transmittal to the U. S. chemist. I was present, however, I think on one of the occasions and I initialed the evidence on each one of them.

Q. As I gather it, the narcotics are sealed in the envelopes and the seal is not broken until it goes to the chemist and thereafter they are kept in the safe at the chemist until brought into court when the seal is then removed? A. Yes. [25]

Cross Examination

Mr. Watkins: Q. Mr. McGuire, Everett Brown was not in the car on any occasion, was he?

(Testimony of Thomas E. McGuire.)

A. Well, on the occasion that he sold the narcotics he was not in the car; that is, the car was not in that vicinity. The car was being used by the other man on the date we purchased the narcotics from Everett Brown.

Q. Everett Brown did not make any sale to you from the car that you know of?

A. Well, he didn't make the sale in this 99N205, from that car.

Mr. Karesh: You mean from this particular car? A. He did not make the sale.

Mr. Watkins: In other words, Everett Brown was not in the car on any of the occasions which you have enumerated.

A. No, not on these four occasions, no.

Mr. Watkins: That is all.

Mr. Karesh: That is all.

The Court: Mr. Brown is the gentleman who got 15 years?

Mr. Karesh: Yes.

The Court: He was never at any time in this car when any of these sales took place?

Mr. Karesh: That's right.

The Court: All right. Step down. [26]

GEORGE COFFILL

called by the United States; sworn.

The Clerk: Q. Will you state your name to the Court? A. George B. Coffill.

Direct Examination

Mr. Karesh: Q. You are in the employ of the United States? A. Yes.

Q. How long have you been employed?

(Testimony of George Coffill.)

A. Twenty-five years.

Q. In what capacity have you been employed?

A. Federal Narcotic agent.

Q. That is under the Treasury Department?

A. Yes.

Q. What are your duties?

A. The enforcement of the Harrison Narcotic Act, and the Federal Marijuana Tax Act.

Q. And the Jones-Miller Act? A. Yes.

Q. The Harrison Act has to do with the sale of narcotics and the Jones-Miller the concealment?

A. Yes.

Q. Were you in 25 years' continuous service with the Bureau of Narcotics?

A. All with the exception of 3½ years, from 1942 to 1946, when I was in the military service.

Q. What unit of the military service?

A. The Air Corps.

The Court: Coffill. When they called you, I thought they were calling a corporal from the army.

Mr. Karesh: Q. You were in the Intelligence Unit of the Air Corps? A. Yes, I was.

Q. What rank did you hold when you got out of the army? A. I was a major.

The Court: I trust that didn't offend you.

The Witness: It didn't bother me, your Honor.

The Court: I thought really his name was Corporal. I believed it was.

Mr. Karesh: Q. When did you get out of the army as a major? A. January 27, 1946.

Q. You went right back into the Bureau of Narcotics? A. Yes, I did.

(Testimony of George Coffill.)

Q. How long have you been in the San Francisco office? A. Since 1936.

Q. Do you know Agent McGuire who just testified? A. Yes.

The Court: Are you his superior or is he yours? What is your rank there?

A. I believe we are both narcotic officers. [28]

The Court: Well, isn't there some classification? Who is the supervisor?

A. Mr. Cass is the acting supervisor.

The Court: Oh, I thought McGuire was. I had every reason to believe that; he was so active around the office.

Mr. Karesh: You hold the same rank, same status?

A. That's right. I am an inspector.

Q. McGuire is an inspector?

A. He is an agent.

The Court: McGuire is always active. I knew you were there but every time McGuire shows up. It is not hard to see him, for some reason or other.

Mr. Karesh: Q. Calling your attention to February 22, 1948, did you see an informer on that day? A. Yes, I did.

Q. Just tell us what happened; what happened and where you went and what occurred?

A. Well, at about 11:30 a.m. on that date, February 22, 1948, I was in Room 2104 at 100 McAllister Street with Agent McGuire, Agent Bertin and the informer. I witnessed Agent McGuire

(Testimony of George Coffill.)

search this informer in the presence of Inspector Bertin and I then saw Agent McGuire hand the informer \$50 in currency. We then, that is, Agent McGuire and Agent Bertin and the informer and myself, left the building at 100 McAllister and entered the government automobile. Agent McGuire drove the car to the [29] vicinity of Fulton and Laguna at which point the informer and Agent Bertin and myself got out of the car. The informer stood on the corner of the street by a grocery store, that is, outside, near the curb and at about 12:00 o'clock noon I saw a Cadillac car.

Q. And this time is to the best of your recollection?

A. Yes, to the best of my recollection. I saw the Cadillac car.

Q. I think you mean 99N205?

A. 99N205, proceeding south on Fulton Street and when the car reached the intersection of Fulton and Laguna, I saw the informer get in the car. The car stopped and the informer got in the car and then the car made a righthand turn on Laguna and proceeded until it very nearly reached the corner of Laguna and Grove Streets and it stopped.

Q. You had that car under your observation?

A. Yes.

Q. At all times? A. Yes.

Q. It never got out of your sight?

A. No.

(Testimony of George Coffill.)

Q. Did the informer ever get out of your sight up to that time with the exception of getting into the car? A. No.

Q. You had him under constant surveillance?

A. Yes.

Q. Proceed.

A. When the automobile stopped near the corner of Laguna and Grove Streets, I witnessed the informer get out of the car and then the car turned right on Grove and out of my sight.

Q. But not the informer?

A. Not the informer. The informer walked on Laguna back toward Agent Bertin and myself who were at the corner of Fulton and Laguna Streets and when he reached us he handed me a small package which contained six capsules of heroin. When I weighed it, it proved to weigh 12 grains of heroin.

Q. It was placed in this envelope, U. S. Exhibit 1 for identification; that's right, isn't it?

A. That is correct.

Q. Go ahead. Then what happened?

A. The informer and Agent Bertin and I waited over in the vicinity of Fulton and Laguna Streets for a few minutes when Agent McGuire returned in the government car and we all got in the automobile with the informer, Agent Bertin and myself, and we drove back to 100 McAllister Street, went up to our office in Room 2104 where I saw Agent McGuire again search the informer and the informer had no money in his possession nor narcotics at that time.

(Testimony of George Coffill.)

Q. On February 22 you say you had the informer under your complete surveillance. Did he talk to anyone with the exception [31] of those people he talked to in the automobile?

A. That is all he talked to. He talked to no one until he got in the automobile and after he got out of the automobile he talked to no one.

Q. He did not accost anyone? A. No.

Q. You say the narcotics were sent to the chemist and you have identified U. S. Exhibit 1 for identification. A. Yes.

Q. Calling your attention to February 24, 1948, you saw the informer in the office of the Bureau of Narcotics on that day? A. I did.

Q. Who was present; just tell us what happened.

A. As I recollect, the time was approximately 2:30 p.m. on February 24, and Agent McGuire and Agent Bertin and the informer and I were in Room 2104 at 100 McAllister Street and again on this occasion I witnessed Agent McGuire search this informer in the presence of Agent Bertin and I then saw Agent McGuire hand the informer \$50 in United States currency. Then Agent McGuire and Agent Bertin and the informer and I left the building at 100 McAllister Street and entered the government automobile and Agent McGuire drove us to a spot between Montpelier and Laguna on Fulton Street where the informer and Agent Bertin and I got out of the car and the informer walked to the southwest corner of Fulton and Laguna.

(Testimony of George Coffill.)

Streets and stood there outside of the [32] grocery store close to the curb. In ten or fifteen minutes, a short time, I again saw the Cadillac car 99N205.

Q. The sedanette 99N205?

A. Coming south on Fulton and when the car reached the corner of Laguna and Fulton Streets I saw the driver open the car and I saw the informer get in the car.

Q. Prior to that time, from the time the informer left your office with the other agents to go to Laguna and what street?

A. Laguna and Fulton.

Q. Did the informer accost anyone or speak to anyone?

A. He had spoken to nobody and nobody had spoken to him.

Q. Go ahead.

A. The informer in the car and the car started out and turned right on Laguna and drove a block, or close to a block, and stopped near the corner of Grove and Laguna.

Q. Did you have that car under observation at all times?

A. All the time. I saw the informer get out of the car.

Q. Then what happened?

A. I saw the car start off and turn right on Grove Street out of my sight, but the informer walked toward Laguna and Fulton Street where Agent Bertin and I were standing.

(Testimony of George Coffill.)

Q. Did he accost anyone from the time he got out of the car until he came to you and Agent Bertin? A. He did not.

Q. Go ahead. [33]

A. When he came up to us, the informer handed a small package to me which later on in the office of the Narcotics Bureau I found to contain six capsules or 12 grains of heroin.

Q. You put it in an envelope, U. S. Exhibit 2 for identification, your name is on there, isn't it, or is it Bertin's name there?

A. In this particular instance, on February 24, the envelope was executed by Agent McGuire but then Agent Bertin and I delivered it to the chemist.

Q. It contained heroin?

A. Six capsules, two grain to a capsule.

Q. That is inside U. S. Exhibit 2 for identification, that is inside the envelope? A. Yes.

Q. Calling your attention to February 26 of 1948, did you see the informer on that day?

A. Yes, I did.

Q. Where and when and who was present and what transpired?

A. February 26, 1948, I was in the Narcotic office at Room 2104, 100 McAllister Street.

Q. About what time?

A. At approximately 12:30 p.m.

Q. Go ahead.

A. At that time I saw Agent McGuire search this informer in the presence of Agent Bertin and myself. Then I saw Agent McGuire hand the

(Testimony of George Coffill.)

informer \$50 in currency and we again left the [34] office, all four of us, and got in the government automobile, and Agent McGuire again drove us to the vicinity of the corner of Laguna and Fulton Street, where the informer and Agent Bertin and I got out of the car and the informer again stood on the corner of Fulton and Laguna Streets, outside the grocery store but over close to the curb, and in a short time, a few minutes, I again saw this Cadillac car 99N205 come down Fulton Street toward the City Hall and when it reached the corner of Fulton and Laguna it stopped and the door was opened by one occupant of the car, at which time I noticed a colored man driving the car and a colored woman sitting next to him, and I saw the informer get in the car and the car then started up and turned right on Laguna and drove just a block.

Q. Did you have it under your surveillance?

A. At that time, after I saw it approach and from then on I saw the car proceed on Laguna and when it very nearly reached the corner of Laguna and Grove it stopped and immediately I saw the informer get out and then the car started up, turned right and went west on Grove out of my sight.

Q. Go ahead.

A. And the informer came towards Laguna and Fulton Street to where Agent Bertin and I were standing.

Q. Did the informer accost or speak to anyone when he came back?

(Testimony of George Coffill.)

A. He never spoke to anyone during that period he was walking [35] to the car from where we were.

Q. Then what happened?

A. When he reached us, he just handed me a small package in the presence of Agent Bertin. The three of us then — Agent Bertin and the informer and I waited there for a considerable length of time. I mean longer than on the previous occasions. It was very nearly an hour and at the end of that time Agent McGuire came back in the government car and the informer and Agent Bertin and I then got in the car and we drove back.

Q. All the time you were waiting there, nobody talked to the informer, nobody accosted him except you people?

A. Agent Bertin and I talked to him, but nobody else did. Then we drove back to [100] McAllister Street and went up to Room 2104 where I saw Agent McGuire search this informer and he had nothing on his person, that is, he had no money, he had no narcotics at that time.

Q. The narcotic was placed in the envelope, Exhibit No. 3 for identification, and sent to the chemist for his analysis?

A. Right. I weighed the capsules and placed them in this envelope and Agent McGuire and Agent Bertin had initialed it and we sealed it and then Agent Bertin and I took the package to the U. S. chemist.

Q. Calling your attention to March 23, 1948, did you again see the informer? A. Yes.

(Testimony of George Coffill.)

Q. You saw him at the office of the Bureau of Narcotics? A. Yes.

Q. To the best of your recollection, what time was it?

A. It was around 3:30 p.m., or something like that.

Q. Who was present?

A. Agent Bertin and Agent McGuire and the informer.

Q. What happened?

A. I saw Agent McGuire again search this informer and then I saw Agent McGuire hand the informer \$50 in paper money.

Q. Go ahead.

A. Then Agent McGuire and Agent Bertin and the informer and I left the building in the government car and Agent McGuire drove us to the vicinity of Laguna and Fulton Streets where the informer and Agent Bertin and myself got out of the car and I saw the informer walk across the street to the corner where the grocery store was located at Laguna and Fulton Streets.

Q. Did anybody talk to him or accost him at that time?

A. Nobody talked to him at all or approached him.

Q. Go ahead.

A. After the informer had stayed there for 15 or 20 minutes, I again saw this Cadillac car 99N205 come down Fulton Street toward the Civil Center. When it reached the corner of Laguna and Fulton,

(Testimony of George Coffill.)

it stopped on the corner and I saw the informer get in this car and the car swung right on Laguna Street and drove the short block to Laguna and Grove and stopped. [37]

Q. You had that car under your observation?

A. From that point to Laguna and Grove I did.

Q. Go ahead.

A. Then I saw the informer get out of the car and then the car swung right, going west on Grove, out of my sight and I watched the informer come back to Fulton and Laguna Street to Inspector Bertin and myself and he handed me the small package.

Q. He didn't meet anyone?

A. No. Of course, people passed him but he spoke to no one.

Q. Didn't extend his hand to anybody?

A. No, he did not and he came back and handed a small package to me which I later found to be four capsules of heroin, a total of eight grains, if I remember.

Q. The four capsules were placed in the envelope, U. S. Exhibit 4 for identification, and you again sent the envelope to the chemist for his analysis; is that right? A. Correct.

Q. You say you saw the informer enter the Cadillac car on four separate occasions, 99N205, from the time you first observed the car to the time the informer entered the car and the time the car went away out of your sight; now then, did

(Testimony of George Coffill.)

you see anyone else other than the informer enter the car on those four occasions?

A. I did not.

Q. When did you see the car next, the Cadillac 99N205? [38]

A. After March 23 I saw it the next day, March 24, 1948.

Q. Where?

A. About 50 feet or 100 feet from the car of— from the corner of Laguna and O'Farrell Street, near the entrance to 1430 O'Farrell Street.

Q. Did you see Barrow that day?

A. Yes.

Q. Where was he when you arrested him?

A. I saw Kado Barrow approximately at 1:00 o'clock in the afternoon of that day, March 24, at the corner of Laguna and Grove Street when we arrested him.

Q. You arrested him? A. On March 24.

Q. Kado Barrow? A. Yes.

Q. Who was with you when you arrested him; where was he when you arrested him?

A. Laguna and Grove Streets.

Q. Was he in an automobile?

A. Yes. He was in a Yellow taxicab that day.

Q. You asked him where he lived?

A. Yes.

Q. What is the address?

A. He said, "I live at 1430 O'Farrell Street."

Q. Can you describe the car; any distinguishing features about [39] the car?

(Testimony of George Coffill.)

A. The car was a car which was unusual; that is, I have never seen another car exactly like it in San Francisco.

Q. What do you mean?

A. Well, it was a black car and it had two doors and it had a fabric cover on the top.

The Court: What is the importance of this?

Mr. Karesh: Just to be sure the car is identified.

The Court: We aren't talking about a Yellow taxicab now.

Mr. Karesh: No, no. We are talking about the sedanette.

The Witness: It had a snap covering on the top over a steel top giving it the appearance of a convertible, which it was not, and then it had two spotlights on it, one on each side. I had never seen two spotlights only on police vehicles before, but it had two spotlights, one on each side.

The Court: What would you conclude from that?

A. Well, I concluded that the owner had a fancy taste for automobiles.

The Court: My boy has one. Proceed.

Mr. Karesh: Q. Were you present when Everett Brown gave the key to Agent McGuire?

A. Yes, in 1430 O'Farrell Street.

Q. The car that Everett Brown gave the key to Agent McGuire, is that the car you described, the sedanette?

A. Yes. Agent McGuire handed the key to me and I drove the [40] car to the Federal Garage.

(Testimony of George Coffill.)

Mr. Karesh: At this time we will ask leave to offer in evidence on behalf of the Government U. S. Exhibits 1, 2, 3 and 4 for identification, and ask they be received in evidence.

The Court: They will be admitted and marked.

Mr. Karesh: The envelopes and contents.

(U. S. Exhibits No. 1, 2, 3 and 4, previously marked for identification, were thereupon received in evidence.)

U. S. EXHIBIT No. 1

Two envelopes with following notations thereon:

Treasury Department
Bureau of Narcotics

Ex. 3

District No. 14

Case No. Cal-3663

Name: "Kato" (colored) and Everett Brown (colored).

Address: 1430 O'Farrell St., San Francisco, California.

Evidence: Six (6) capsules of Heroin—2 grs. each, total 12 grs. wrapped in yellow cellophane and 3 pieces of chewing gum tin foil.

How obtained: Purchased by Informer Smith.

Where obtained: Laguna and Grove Sts., San Francisco, Calif.

Date: February 22, 1948. Time: 12:00 noon.

Amount paid: \$50.00.

Witnesses: T. E. McGuire, Nar. Agt.; E. B. Bertin, Nar. Agt.; G. B. Coffill, Nar. Inspec.

Agent reporting case: T. E. McGuire, Nar. Agt.

(Testimony of George Coffill.)

Remarks: Third preliminary purchase.

(Markings): Weighed and sealed 2-22-48 GBC.

Witnessed: E. P. Bertin.

Sealed: 3-4-48 GEM.

6 capsules Heroin HCL. Approx. 10 grains.

Laboratory No. 165228, 2/25/48, 165233 CEH.

[Endorsed]: Filed 8-13-48, C. W. Calbreath,
Clerk.

U. S. EXHIBIT No. 2

Two envelopes with following notations thereon:

Treasury Department
Bureau of Narcotics

Exh. No. 4

District No. 14

Case No. Cal-3663

Name: Kato and Everett Brown.

Address: 1430 O'Farrell Street.

Evidence: 6 capsules Heroin (12 grains).

How obtained: Purchased by Willie Smith.

Where obtained: Laguna and Grove.

Date: 2/24/48. Time: 3:00 p.m.

Amount paid: \$50.00.

Witnesses: E. P. Bertin, T. E. McGuire, R.
Brennan and S. Cohen.

Agent reporting case:

Remarks:

(Markings): Weighed and sealed 2/24/48. T. E.
McGuire.

(Testimony of George Coffill.)

Witnessed: 2/24/48. E. P. Bertin.

Sealed: 3-4-48 GEM, RTL.

6 capsules Heroin HCL. Approx. 10 grains.

Laboratory No. 165234, 2/25/48, 165239, CEH.

[Endorsed]: Filed 8-13-48. C. W. Calbreath,
Clerk.

U. S. EXHIBIT No. 3

Two envelopes with following notations thereon:

Treasury Department
Bureau of Narcotics

Ex.-5.

District No. 14

Case No. Cal-3663

Name: "Kato" and Everett Brown (colored) et
al.

Address: 1430 O'Farrell St., San Francisco,
Calif.

Evidence: Six (6) gelatine capsules each containing 2 grs. Heroin total—12 grains—wrapped in yellow cellophane and tin foil and sealed with scotch tape.

How obtained: Purchased by Informer Smith.

Where obtained: Laguna and Grove Streets, San Francisco, Calif.

Date: Feb. 26, 1948. Time: 1:00 p.m.

Amount paid: \$50.00.

Witnesses: T. E. McGuire, Narcotic Agent; E. P.

(Testimony of George Coffill.)

Bertin, Narcotic Agent; G. B. Coffill, Narcotic Agent.

Agent reporting case: T. E. McGuire, Narcotic Agent.

Remarks: Fifth preliminary purchase.

(Markings): Weighed and sealed 2-26-48, GBC.

Witnessed: 2-26-48 EPB.

Sealed: 3-4-48. GEM, RTL.

6 capsules Heroin, HCL, Approx. 10 grains.

Laboratory No. 165272, 165277, CEH.

[Endorsed]: Filed 8-13-48. C. W. Calbreath, Clerk.

U. S. EXHIBIT No. 4

Two envelopes with following notations thereon:

Treasury Department

Bureau of Narcotics

District No. 14

Case No. Cal-3663

Name: Everett Brown, et al. "Kato".

Address: 1430 O'Farrell St., San Francisco, Calif.

Evidence: Four (4) gelatin capsules containing 8 grains of Heroin, wrapped in cellophane chewing gum tin-foil—no marks or labels.

How obtained: Purchased by Informer Smith.

Where obtained: Laguna and Grove Streets, San Francisco, Calif.

Date: March 23, 1948. Time: 4:00 p.m.

Amount paid: \$50.00.

Witnesses: T. E. McGuire, Narcotic Agent; E. P. Bertin, Narcotic Agent; G. B. Coffill, Narcotic Agent.

(Testimony of George Coffill.)

Agent reporting case: T. C. McGuire, Narcotic Agent.

Remarks: Eighth preliminary purchase.

(Markings): Weighed and sealed, 3/23/48. GBC.

Witnessed: E. P. Bertin.

Sealed: 3-29-48. GEM, RFL.

4 capsules Heroin, HCL. Approximately 6 grains.

Laboratory No. 165928, 165931. 3/25/48.

[Endorsed]: Filed 8-13-48. C. W. Calbreath, Clerk.

Mr. Karesh: That is all.

Cross-Examination

Mr. Watkins: Q. You did not see Everett Brown in the Cadillac on any of these occasions you testified to?

A. Not on any of these occasions.

Q. You stated Kado Barrow—you arrested him, you say, when he was in a Yellow taxicab?

A. Yes.

Q. Did he have narcotics on his person at that time?

A. He had narcotics on his person. He had narcotics on his premises—

Q. Was that the same day that the informer had made a purchase?

A. That was March 24. That was not the day---the day later that the Cadillac was used. This was March 24.

Q. When you arrested Kado Barrow he was not in the Cadillac?

A. No; he was in a Yellow taxicab.

Mr. Watkins: That is all. [41]

(Testimony of George Coffill.)

The Court: We will take a recess for a few minutes.

(Recess.)

Mr. Karesh: Q. I have one question of Mr. Coffill. Mr. Coffill, have you ever seen Everett Brown riding in this Cadillac sedanette 99N205 license number? A. Yes, I have.

Mr. Karesh: That is all.

Mr. Karesh: May I recall Mr. McGuire for one question?

THOMAS E. McGUIRE

recalled, previously sworn.

Mr. Karesh: Q. Mr. McGuire, at the time you made the arrest of the defendants you have mentioned at 1430 O'Farrell Street on March 24, 1946, did you find any narcotics in the premises 1430 O'Farrell Street? A. Yes, I did.

Mr. Karesh: That is all.

Mr. Watkins: No questions.

Mr. Peckham: Your Honor, I think counsel for the intervening party and counsel for the Government can expedite matters by stipulating at this time to certain documents.

Mr. Watkins: I offer in evidence, your Honor, an abstract of Motor Vehicle Registration, Transfer of Ownership interest from Jack Andrade to Everett Brown. [42]

The Court: What is the date?

Mr. Watkins: That is dated October 24, 1947, a conditional sales contract between Everett Brown and Jack Andrade, the claimant, dated October 24, 1947, referring to your Honor's attention to the

assignment and repurchase agreement on the reverse side of the conditional sales contract whereby the contract was assigned to the Pacific Finance Corporation, a corporation, named as the legal owner in the record offered by the Government. It may be stipulated the pink slip has been returned to Jack Andrade under the guarantee of payment agreement whereby he had to repay the finance company till the finance company had repossessed and wanted the entire balance due and made a demand on Andrade to repurchase, which he did, and paid to the finance company \$3,123.10 on May 25, 1948; the check for this amount bearing the endorsement of the finance company is being offered in evidence likewise.

I also offer in evidence, if your Honor please, a purchaser's credit statement obtained by Jack Andrade, the claimant, on October 24, 1947 when Everett Brown purchased the car. I wish to draw your Honor's attention to the fact that his occupation is given as foreman, CIO Waterfront Union, Local 110; that his monthly income is \$420; that he has other income of \$150 a month from room rent.

I offer also a letter dated May 25, 1946, from the Pacific Finance Corporation, acknowledging receipt and reassignment [43] of the contract and all interest in the automobile to Jack Andrade. I offer these as an exhibit for the claimant, your Honor.

The Court: Let them be admitted and marked.

(The documents referred to were marked Defendant's Exhibit A in evidence.)

RESPONDENT'S EXHIBIT A

Notice—Transfer Owners Interest In and
Possession of Motor Vehicle
State of California
Department of Motor Vehicles
Division of Registration

Registrar of Vehicles
Sacramento, California.

This is to advise you that on Oct. 24, 1947, I, as registered owner of the vehicle described below, sold or transferred my interest in and possession of said vehicle to:

Name: Everett Brown.

Address: 1430 O'Farrell St.

City: San Francisco.

License No.: 47 99N205. Engine No.: 8431298.

Make: '47 Cadillac. Type: Sedanet.

(Signed) JACK ANDRADE.

Address: 810 Van Ness Avenue., San Francisco.

Section 177 of the California Vehicle Code requires the filing of this notice immediately upon sale or transfer of a vehicle previously registered in this state. Failure to do so constitutes a misdemeanor. (Section 760.)

Respondent's Exhibit A (Continued)

"SMILING JACK" ANDRADE

No. 7048

King of Fine Cars

810 Van Ness, San Francisco 9, Calif.

San Francisco, California, May 25, 1948

Pay to the Order of

PACIFIC FINANCE CORP. OF CALIF.....\$3123.10

[Stamp]: Jack Andrade 3123 Dols 10 Cts.....Dollars

JACK ANDRADE

/s/ SYLVIA ANDRADE

Polk-California Office 11-136

AMERICAN TRUST COMPANY

San Francisco, California

[Endorsement on back of check]: Pay off in full—Everett Brown—
Contract 47 Cad M No. 8431298

CONTRACT OF CONDITIONAL SALE

[Printer's Note]: This Contract of Condition Sale is similar to Contract of Sale set out in full at page 13 of this printed Record.

PURCHASER'S CREDIT STATEMENT

For the purpose of securing credit from you on my purchase, I make the following representations: (Please answer all questions.)

1. Name: Everett Brown. Age 27. Married. Dependents: three. Color: Colored. Home Address: 1430 O'Farrell St., San Francisco. Phone WA. 1-4802. How long: three years. Previous Address: 1954 Bush St. How long: four years. Own home.

2. Occupation: Foreman. Employed by C.I.O. Waterfront Union, Local 110. How long? 4 yrs. Business address; 77 Clay St. Monthly income:

Respondent's Exhibit A (Continued)

\$420.00. Other income: \$150.00. From room rent. Wife's name is Geraldine.

3. References: Bank of America. Address Post and Fillmore. Loan. Trade: Exhibit Furniture Co. Address: Mission Street, San Francisco. Personal (not relatives): Boyd Puccinelli. Address 714 Kearny Street, San Francisco. Personal (not relatives): Sam Palos. Address: Auto Construction Co., Steiner and Ellis. My nearest relative other than husband, wife or child: Nolan Brown, brother. Address 1430 O'Farrell. Previous car purchased from Van Etta Motors. Financed through: Anglo-California. Fully paid: Yes.

Purchaser: Everett Brown.

Dated: Oct. 24, 1947.

PACIFIC FINANCE CORPORATION

928 Van Ness Avenue

San Francisco 9, California

TUxedo 5-4554

For Value Received we hereby sell and assign, without recourse, unto Jack Andrade the within contract signed by Everett Brown, as purchaser, covering 1947 Cadillac Sedanet, Motor Number 8431298.

PACIFIC FINANCE CORP.
OF CALIFORNIA,

By /s/ (Illegible.)

Dated at San Francisco, California, this 25th day of May, 1948.

Respondent's Exhibit A (Continued)

Subscribed and Sworn to before me, this 25th day of May, 1948.

/s/ (Illegible),

Notary Public in and for the City and County of San Francisco, State of California. My Commission expires Sept. 12, 1950.

Car No. 1328.

1. This Conditional Contract of Sale, entered into in duplicate this 24th day of Oct., 1947, by and between Jack Andrade, San Francisco, California, the party of the first part (hereinafter called Seller) and Everett Brown, 1430 O'Farrell Street, party of the second part (hereinafter called the Purchaser).

Witnesseth: Seller hereby agrees to sell, and Purchaser hereby agrees to buy the following described personal property, to-wit:

One: 1947; trade name: Cadillac; type of body, if truck, state tonnage; sedanet; motor number 8431298; serial number: same; state license number: 99N205; new or used: used; number of cylinders: eight. Complete with all standard attachments and equipment, for which Purchaser agrees to pay, at San Francisco, Calif., in the following manner: \$2,307 upon the signing of this agreement, receipt of which is hereby acknowledged, and (24) equal successive installments of \$165.32 each, payable on the same day of each month, commencing Dec. 4, 1947.

Respondent's Exhibit A (Continued)

Deposit	\$ 20.00
On Delivery	2,287.00

Total	\$2,307.00
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S P	\$5,200.00
-----------	------------

Tax	156.00
-----------	--------

D. M. V.	1.00
---------------	------

Total	\$5,357.00.
-------------	-------------

Down	\$2,307.00
------------	------------

Net	\$3,050.00
-----------	------------

* * * *

/s/ EVERETT BROWN.

Date delivered: 10/24/47.

Transferred R.S. No. 453834.

Pink? White P.F., 10/27/47.

Mr. Peckham: Your Honor, among the documents just offered in evidence in behalf of the claimant is a purchaser's statement, credit statement, which was filled out by the claimant and the answers of Everett Brown were filled in. References are the Bank of America, Post and Fillmore Branch. The personal references, not relatives, that was given as Boyd Puccinelli, 714 Kearny Street, San Francisco. The manager of the Bank of America and Mr. Puccinelli are in court and I believe that counsel for the claimant and myself can stipulate that if these gentlemen were called that they would testify that they were never contacted by either the Pacific Finance Company or the used car dealer, the claimant, regarding the subject, Everett Brown.

The Court: Who made it out?

Mr. Peckham: Everett Brown signed it and it was made out by Mr. Andrade with Everett Brown.

Mr. Watkins: It was so stipulated. In other words, they were given as credit references. In view of the down payment there, they never consulted them because he made a very substantial [44] down payment.

The Court: How much was the down payment involved?

Mr. Watkins: \$2,300.

The Court: How much is the Cadillac worth?

Mr. Watkins: It was \$5,356 total, payable \$150 a month, \$186 insurance in addition.

Mr. Karesh: At this time, your Honor, we renew our offer of the conviction of Mr. Brown on prior narcotic convictions on the 22nd day of November, 1943. This becomes material. The seller of the car would have to show his good faith by checking on Everett Brown. If he checked, he never would have sold the car.

Mr. Watkins: That is objected to as incompetent, irrelevant and immaterial, because this car was not shown in any instance to have been used by Everett Brown in the disposition of any narcotics.

Mr. Peckham: Well, we don't have—

Mr. Watkins: We have nobody in that car but another man whom they refer to as, I think, Kado.

Mr. Peckham: Kado Barrow.

Mr. Watkins: Everett Brown, according to the testimony of the witnesses, was never in this car when any sale of narcotics was made.

Mr. Peckham: The statute provides, your Honor, it is the car that is on trial if narcotics are sold in the car. That is [45] all we have to show. Now, then, of course, the other side would have to show the person who loaned his car, say, Brown loaned it to Barrow who was a man of good character, good reputation, and that is why the car got in trouble here, because they sold it to a man like Brown. Therefore, this becomes extremely material.

The Court: The objection will have to be sustained. The proper foundation has not been laid.

Mr. Peckham: I think counsel will stipulate that Everett Brown was convicted of this—

The Court: What is it?

Mr. Peckham: A certified copy from the United States District Court for the Northern District of California showing that Everett Brown—

The Court: 1943?

Mr. Peckham: 1943. This becomes material, your Honor, because the used car dealer could have checked to see who Everett Brown was, and had he checked, he would have seen that Everett Brown had been convicted of a narcotic violation in 1943, and when he sold him this car in 1947, he should have been placed on notice that Brown was trafficking in narcotics.

The Court: Where is the law to give us any guidance in relation to checking?

Mr. Karesh: Mr. Peckham has studied the law of condemnation and I think he would like to argue the proposition. [46]

The Court: We are talking about the admissibility of this document.

Mr. Karesh: A criminal record of a man who owns a car and lends it to somebody is admissible if it refers to a narcotic violation.

The Court: How would I know about that?

Mr. Karesh: If Your Honor please, in order to unjustify—

Mr. Peckham (interrupting): Excuse me. I wonder if counsel could have a further stipulation with regard to Mr. Puccinelli's testimony if he was called. I don't know if counsel is willing to stipulate.

(Conference between respective counsel at counsel table.)

Mr. Peckham: I think we would have to call Mr. Puccinelli.

BOYD PUCCINELLI

called by the United States; sworn.

The Clerk: Will you state your name to the Court? A. Boyd Puccinelli.

Direct Examination

By Mr. Peckham:

Q. Where do you live?

A. 3040 Twenty-third Avenue, San Francisco.

Q. What is your business or occupation?

A. Bail bonds and real estate broker.

Q. Where is your place of business?

A. 714 Kearny Street. [47]

Q. Do you know anyone by the name of Everett Brown? A. Yes, I do.

(Testimony of Boyd Puccinelli.)

Q. When did you become acquainted with Mr. Everett Brown? A. When?

Q. How?

A. Bail bond service at my bail bond office.

Q. To the best of your recollection, when did you first come in contact with him in that connection?

A. The last three or four years, I imagine: I don't know exactly. The last two years.

Q. You mean the first time was approximately three or four years ago?

A. Yes; maybe a little longer.

Q. Did you ever come in contact with him again in regard to bail bond matters?

A. Yes.

Q. When was that?

A. That was on this late case that he was convicted on.

Q. Was that this year?

A. I believe so, yes.

Q. Was this first bail bond transaction prior to October 24, 1947; in other words, was it prior to the first of last year?

A. I have had a number of bail bond transactions with Everett Brown prior to 1947.

Q. Do you recall the nature of the violations upon which he [48] sought bail?

A. Well, a number of vagrancy cases and assault cases. Whether there was any prior narcotic cases, I don't know at this time. I have a record in my office. I didn't know what I was

(Testimony of Boyd Puccinelli.)

coming here for and I didn't refresh my memory.

Q. Do you recall an interview with Agent McGuire concerning Everett Brown?

A. I spoke to him a number of times.

Q. You don't recall any matters that you discussed with him at that time regarding prior narcotic violations?

A. Prior narcotic violations?

Q. Yes.

A. Well, I had known that Everett Brown was convicted on narcotics prior to the time I put up this bond, I did know that, yes.

Q. On or about October 24, 1947, or any time thereafter were you contacted by anyone from the Pacific Finance Corporation or anyone from the used car dealer known as Jack Andrade concerning Everett Brown?

A. Not to me directly that I recall.

Mr. Peckham: That is all.

Mr. Watkins: No questions.

Mr. Karesh: In view of the testimony of Mr. Puccinelli we withdraw the offer of this document, your Honor. [49]

Mr. Peckham: The Government rests, your Honor.

MRS. EDWINA DeLONG

called by the claimant; sworn.

Direct Examination

Mr. Watkins: Q. Mrs. DeLong, you reside in the City and County of San Francisco?

A. Yes, I do.

Q. You have for many years last passed?

(Testimony of Mrs. Edwina DeLong.)

A. Yes.

Q. You are general office manager in charge of credit and loans of Jack Andrade Automobile business? A. That's right.

Q. You have been for how long?

A. Three and a half years.

Q. In your capacity as manager, do you handle all the contracts relating to the sale of automobiles from the premises? A. Yes, I do.

Q. You have a usual course of inquiry that you make to determine the credit standing of a purchaser?

A. Well, if I have any reason to suspect that the customer did not tell me the truth, I generally check their credit.

Q. Well, do you remember the facts concerning the Everett Brown sale of a Cadillac automobile on October 24, 1947? A. Yes. [50]

Q. You handled that transaction?

A. Yes, I did.

Q. At that time did Everett Brown make out this purchaser's credit statement at your request?

A. I asked him the questions and wrote it down myself and he signed it.

Q. He said he was a foreman employed by C.I.O. Did you do anything to ascertain whether he was?

A. Well, I asked him for identification and he had a Waterfront Employees badge and he had his union card showing he was a member.

Q. Longshoremen's union? A. Yes.

(Testimony of Mrs. Edwina DeLong.)

Q. Did he tell you the real property was located where he was residing?

A. He told me he owned the property at 1430 O'Farrell Street and rented out rooms from which he got \$150 a month income.

Q. He made a down payment at that time of \$2,307? A. Yes.

Q. Was that regarded by you as a sufficient down payment to waive further inquiry as to his credit status?

A. As long as he was a property owner and gave a good credit statement, there wasn't any reason to doubt that it was not all right.

Q. You are acquainted with the practices of the used car [51] business and have been in that business for many years? A. Yes.

Q. Before you were with Mr. Jack Andrade, you were with DeLong Motors? A. Yes.

Q. You are now Mrs. DeLong. Does the industry, the used car industry, in the sale of automobiles, inquire into the record of a man as to criminal acts? A. Never, in my knowledge.

Mr. Karesh: That is objected to, whether they inquired into it. They should inquire, whether they do or not.

The Court: You told me you would show me the law where it is a legal obligation of doing that, to make that inquiry, didn't you?

Mr. Karesh: That is the whole basis of the Government's case.

The Court: I will allow the testimony.

The Witness: Would you mind repeating that?

(Testimony of Mrs. Edwina DeLong.)

Mr. Watkins: I will ask you, are you familiar with the practice of the used car industry with respect to investigating a man's record to ascertain whether he has ever been convicted of a criminal offense before granting him credit?

A. I never heard of anyone doing that, no. We have never done it before.

Q. You yourself talked to Mr. Everett Brown?

A. Yes.

Q. Do you remember the details?

A. Yes, I do.

Q. Was there anything at all about his manner or about his buying this Cadillac, which is an expensive car, that excited your suspicion?

A. No. It is not unusual for colored people to buy large cars. They are always in looking at them. They always want Cadillacs or Lincolns and as long as they have the down payment and the credit is all right, we don't object.

Q. You do not go into the question of whether they have a criminal record? A. No.

Q. You don't do it in the case of white patrons?

A. No.

Q. In this case he made a substantial down payment. Did you regard that as a considerable sum for a colored man to have?

A. Not in the last three or four years, no.

Q. The legal ownership statement is in the possession of you?

A. Yes. It has been released by the fiance company. We have it.

(Testimony of Mrs. Edwina DeLong.)

Q. It was endorsed back to Jack Andrade?

A. Yes.

Cross-Examination

Mr. Peckham: Q. Mrs. DeLong, it is your testimony that [53] you did not check the Bank of America, the Exhibit Furniture Company, Boyd Puccinelli, Sam Palos or Nolan Brown, all of whom were given as references?

A. Nolan Brown, who is his brother, was with him at the time. I didn't check any of the others, no.

Q. Did you check the Van Etta Motor Company from whom he purchased a car, as related on this purchaser's credit statement?

A. No, we did not.

Q. Did you check the Anglo-California Bank?

A. I checked none of them.

Mr. Peckham: That is all.

The Court: **Step down.**

Mr. Watkins: That will be all, your Honor.

Mr. Karesh: I believe, your Honor, this case should be submitted on written memoranda of points and authorities.

(After discussion by respective counsel the matter was continued until Monday, August 27, 1948.) [54]

Friday, Morning Session—August 27, 1948

JACK ANDRADE

called as a witness on behalf of the Government,
and being first duly sworn, testified as follows:

The Clerk: Q. Will you state your name?

A. Jack Andrade.

Direct Examination

Mr. Karesh: Q. What is your occupation, Mr. Andrade? A. Automobile business.

Q. Where is your office?

A. 810 Van Ness Avenue.

Q. What car is this in question? What is it?

A. A 1947 Cadillac sedanette.

Q. How much did you sell that car for?

A. \$5,300 and some odd, offhand.

Q. Who did you sell that car to?

A. It was sold to Everett Brown.

Q. When? A. I have no idea.

Q. You do not know?

A. My secretary handles the office.

Q. Do you have the papers from your secretary? A. I believe Mr. Watkins has.

Mr. Watkins: The secretary is here. [55]

Mr. Karesh: I would like to develop as much as I can from Mr. Andrade. He made a statement through counsel that he had sold the car and all he was making out of it in effect was \$200.

The Court: Ask him how much he made.

Mr. Karesh: Q. What are you making on this transaction?

A. I don't know. Sometimes I buy a Cadillac for \$5,000 and sell for \$4,600.

(Testimony of Jack Andrade.)

Q. How much did Mr. Brown pay for this car?

A. Offhand, I couldn't say. I didn't write the order.

Q. Didn't Mr. Brown make a cash payment?

A. I didn't make the deal.

Q. You do not know anything about it?

A. I know what I paid for the car.

Q. What did you pay for the car?

A. The cars are sold on the floor by my salesmen. I don't sell cars. I handle the business.

Q. What did you pay for the car?

A. I paid for the car \$5,100.

Q. When was that?

A. I don't know what date it was. It is in the books.

Mr. Karesh: I think, if your Honor please, we will call the secretary.

The Court: Step down. Call the secretary. [56]

EDWINA DeLONG

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

Direct Examination

Mr. Karesh: Q. What is your occupation?

A. I am secretary to Jack Andrade.

Q. And Jack Andrade runs a used car business?

A. On Van Ness Avenue.

Q. In San Francisco? A. That is right.

Q. How long have you been employed by him?

A. Three and a half years.

(Testimony of Edwina DeLong.)

Q. You are in charge of the records of the company? A. That is right.

Q. Everett Brown purchased a car from the Andrade Automobile Company when, do you know?

A. In October, 1947.

Q. Did he have to give a car in exchange?

A. No, he gave a cash down payment.

Q. How much was the cash down payment?

A. \$2,300.

Q. And how much more did he pay on the car?

A. He made about two payments.

Q. What is the sum total which Mr. Everett Brown has paid to the Andrade Company? [57]

A. He paid \$2300 to us and the balance to the finance company.

Q. Any carrying charges on that car?

A. Yes.

Q. How much?

A. I don't remember the exact amount.

Mr. Watkins: I will ask counsel to give her the records.

The Court: What do you mean by carrying charges.

The Witness: Interest.

Mr. Karesh: Q. It is more than interest, isn't it Miss?

A. He had insurance and he had interest, that is all.

Q. What was the sales price of the car?

A. \$5200.

Q. How much down payment did he make?

A. \$2,307.

(Testimony of Edwina DeLong.)

Q. When was he to pay off the balance?

A. He had 24 months to pay at \$165 a month.

Q. 24 months at \$165 a month. What was the interest and carrying charges?

A. The interest was \$739.

Q. So, in other words, he was paying \$5900, is that right.

The Court: What is there irregular about that?

Mr. Karesh: \$700.

The Court: Your carrying charge.

The Witness: That is entirely within the law. There is [58] nothing irregular about the cost charges.

The Court: Q. Is there any automobile man in town who is not doing the same thing in any classification?

A. There is lots of finance companies charging 2 per cent, twice as much.

Mr. Karesh: Q. Did I understand you to say there was a \$700 carrying charge?

A. That is right, for 24 months.

Q. How many payments has he made?

A. He made two payments.

Q. What is the total amount of payments he has made? A. Approximately \$330.

Q. So what is the total amount he has paid so far on the car? A. That would make it \$2600.

Q. Who financed the contract?

A. Pacific Finance Corporation.

Q. What do the Pacific Finance Corporation do?

The Court: Q. Who is the Pacific Finance Corporation?

(Testimony of Edwina DeLong.)

A. They are the finance company that we give all our contracts to, we sell them to, and they give us a check.

Q. Where is their place of business?

A. 928 Van Ness Avenue.

Mr. Karesh: Q. So Mr. Brown has paid \$2400 on that car? A. Twenty-six.

Q. \$2600. You bought the contract back from the finance company [59] A. That is right.

Q. How much did you pay them for that contract? A. \$3,123.

Q. \$31— A. \$3,123.10.

Q. And you are getting the car back?

A. We haven't got it yet.

The Court: They hope to get the car back. Unless I change my mind, they will.

Mr. Karesh: Q. How did you happen to buy back the contract from the finance company?

A. The finance company forced us to. The dealer has to guarantee his paper.

Q. That is why that \$700 carrying and cost charge comes in, because you guarantee the paper?

A. Not necessarily. There is lots of people who charge them and who do not give paper.

Q. Isn't it true that you bought the contract back because the Pacific Finance Company had filed a petition for remission of forfeiture with the Secretary of the Treasury and they failed to get it back, and then you bought it back, is that right?

The Court: Assuming that to be true—

The Witness: I don't even know that they filed any petition.

(Testimony of Edwina DeLong.)

Mr. Karesh: Here we have a situation— [60]

The Court: Let us get through with this witness.

Mr. Karesh: Q. When was the petition for remission of forfeiture filed for the Secretary of the Treasury?

A. I didn't even know one was filed. As soon as Everett Brown was convicted, we were told to pay off the contract. We were told nothing else.

Q. And wasn't it because you knew that they had filed a petition for remission of forfeiture and had lost it?

A. I didn't know anything about it.

Q. Do you know when the petition was filed?

A. No.

Q. Tell me when you bought back the contract.

A. The check is there. May 24, I think it was.

Q. When was that?

The Court: She said the check is there.

The Witness: I believe it is May 24.

Mr. Karesh: Can I ask counsel when the petition for remission of forfeiture was filed?

Mr. Watkins: I do not know anything about it. All I know is what Mr. Peckham told me. He said a petition had been filed but that they were not going forward on the petition. Nothing was ever done. It was withdrawn, so far as I know.

The Court: It this check here?

Mr. Watkins: I think it is in evidence, if Your Honor please. [61]

The Court: Step down. Prepare your order. Call the next case.

Mr. Karesh: Your Honor, may we at this time serve notice of appeal?

The Court: Pursue your remedy at law, whatever it may be.

[Endorsed]: Filed Dec. 8, 1948.

[61A]

[Endorsed]: No. 12119. United States Court of Appeals for the Ninth Circuit. United States of America, Appellant, vs. Jack Andrade, Claimant of One 1947 Cadillac Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, Appellee. Apostles on Appeal. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed December 9, 1948.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 12119

UNITED STATES OF AMERICA,

Appellant,

vs.

JACK ANDRADE, Claimant of ONE 1947
CADILLAC SEDANETTE AUTOMOBILE,
Motor No. 8431298, Serial No. 8431298, its tools
and appurtenances,

Appellee.

AFFIDAVIT AND ORDER EXTENDING
TIME WITHIN WHICH TO DOCKET
RECORD ON APPEAL.

United States of America,
State and Northern District of California,
City and County of San Francisco—ss.

Joseph Karesh, being first duly sworn, deposes
and says:

That he is an Assistant United States Attorney
for the Northern District of California, and one of
the attorneys assigned by Frank J. Hennessy,
United States Attorney for the Northern District
of California to prepare appellant's brief and to
orally argue this case before this honorable Court;
that heretofore, and on or about the 26th day of
November, 1948, the Attorney General directed the
United States Attorney for the Northern District
of California to prosecute the appeal on behalf of
the United States of America; that at the time such

instruction was received by the United States Attorney the affiant was away from the office and did not return until December 6, 1948; that as a result of his absence he was unable to prepare the designation of the record in this cause so that the record might be docketed in this honorable Court; that the ninety-day period from the time of the filing of the notice of appeal will expire on December 8, 1948.

Wherefore, affiant prays that an order be entered herein extending the time to docket the record on appeal, to and including the 22nd day of December, 1948.

/s/ JOSEPH KARESH,
Assistant United States
Attorney.

Subscribed and sworn to before me this 8th day of December, 1948.

(Seal) FRANK SCHMID,
Deputy Clerk, United States Court of Appeals for
the Ninth Circuit.

Ordered: Time extended to December 13, 1948.

/s/ WILLIAM DENMAN,
Judge, United States Court of Appeals for the
Ninth Circuit.

[Endorsed]: Filed December 9, 1948. Paul P.
O'Brien, Clerk.

[Title of U. S. Court of Appeals and Cause.]

STATEMENT OF POINTS TO BE RELIED
ON IN APPEAL AND DESIGNATION OF
CONTENTS OF THE RECORD TO BE
PRINTED.

The United States of America, appellant herein, hereby designates the entire record filed with this Court as necessary for the consideration of the appeal, and the following constitute the points to be relied upon on appeal:

1. That the District Court erred in making and entering the findings of fact, conclusions of law, and order for judgment in favor of intervener and against the libelant United States of America, made and entered in the above cause.

2. That the District Court erred in failing and refusing to find that the libelant United States of America was entitled to the forfeiture of the above-described One 1947 Cadillac Sedanette Automobile.

3. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that the respondent, One 1947 Cadillac Sedanette Automobile, Motor No. 8431298, Serial No. 8431298, its tools and appurtenances, was in the illegal possession of Kado Barrow.

4. That the District Court erred in rendering judgment against libelant United States of America, in that there is no evidence in the record to support a finding by the Court that Everett Brown

did not at any time, expressly or impliedly, authorize Kado Barrow to have possession of said 1947 Cadillac Sedanette Automobile, and that Kado Barrow was in illegal possession of said 1947 Cadillac Sedanette Automobile on March 24, 1948, or at any other time.

Respectfully submitted

/s/ FRANK J. HENNESSY,
United States Attorney,

By /s/ R. B. McMILLAN,
Assistant United States
Attorney,

/s/ JOSEPH KARESH,
Assistant United States
Attorney,

/s/ ROBERT F. PECKHAM,
Assistant United States
Attorney,
Attorneys for Appellant.

(Affidavit of Service by Mail attached.)

[Endorsed]: Filed December 20, 1948. Paul P. O'Brien, Clerk.